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THE  
ADMINISTRATION  
OF THE  
COLONIES.



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THE  
ADMINISTRATION  
OF THE  
COLONIES.

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By THOMAS POWNALL,

Late Governor and Commander in Chief of his  
Majesty's Provinces, Massachusetts-Bay, and South-  
Carolina, and Lieutenant-Governor of New-Jersey.

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THE THIRD EDITION,  
*Revised, Corrected, and Enlarged.*

To which is added,

AN APPENDIX, N<sup>o</sup>. III, containing, *Considera-  
tions on the Points lately brought into Question  
as to the Parliament's Right of taxing the  
Colonies, and of the Measures necessary to be  
taken at this Crisis.*

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*Pulchrum est benefacere reipublicæ, etiam benedicere haud  
absurdum est.*

SALLUSTIUS.

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L O N D O N :

Printed for J. DODSLEY, in Pall-Mall, and  
J. WALTER, at Charing-Cross.

MDCCLXVI.



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TO THE  
RIGHT HONOURABLE  
GEORGE GRENVILLE,

First Lord Commissioner of His  
Majesty's Treasury, Chancellor of  
the Exchequer, &c. &c. &c.

SIR,

Whoever considers the importance of the North-American colonies, and the necessary connection of their affairs with those of Great Britain, must congratulate the public upon having a minister, who will take pains to understand the commerce and interests of the colonies,  
A who

## DEDICATION.

who will seriously enter into the administration of them, and who is equal in firmness to pursue those interests in that line only, which connects them with the welfare of the mother country; who, convinced that the mother country has a just and natural right to govern the colonies, will yet so administer the power of that government in the genuine spirit of the British Constitution, as shall lead the people of the colonies, by the spirit of laws and equity to that true and constitutional obedience, which is their real liberty.

The experience I have had in the affairs of the colonies must at least have given me a practical knowledge of them: And the relation I have borne to the people has given me an affection for them. Not being employed in any department, wherein that knowledge can be reduced  
to



## DEDICATION.

to practice, I thought it a duty, if indeed it may be of any use, to publish my sentiments on this subject; and I have taken the freedom, Sir, of addressing them to you.

I have professed an affection for the colonies, because having lived amongst their people in a private, as well as public character, I know them; I know that in their private social relations, there is not a more friendly, and in their political one, a more zealously loyal people, in all his majesty's dominions.

Whatever appearances or interpretation of appearances, may have raised some prejudices against their conduct on a late occasion, I will venture to affirm, that fairly, firmly, and openly dealt with, there is not, with all their errors, a people who has a truer sense of the necessary

## DEDICATION.

powers of government; and I will rest the truth of this assertion on the good effect, which you will have the pleasure to see derived to this country, and to the colonies, from the firmness and candour with which your part of the American business has been conducted.

When the subjects, especially those of a popular state, become alarmed, they are soon inflamed; and then their demagogues, perhaps the worst, as well as the lowest part of the people, govern. The truly great and wise man will not judge of the people from their passions — He will view the whole tenor of their principles and of their conduct. While he sees them uniformly loyal to their King, obedient to his government, active in every point of public spirit, in every object of the public welfare — He will not regard what they are led either  
to

## DEDICATION.

to say or do under these fits of alarm and inflammation ; he will, finally, have the pleasure to see them return to their genuine good temper, good sense and principles. The true movements of government will again have their effect ; and he will acquire an ascendancy over them from the steady superiority of his conduct.

While such is the temper of the great minister, there cannot be too much caution and prudence exercised in preventing the inferior members or officers of government from acting under any sense of resentment or prejudice, against a people improperly supposed to be under disfavour : For by the mutual aggravation and provocations of such misunderstanding towards each other, even a wise people may be driven to madness. Let not the Colonists imagine that the people of England have any ill idea

## DEDICATION.

of them, or any designs of oppressing them. The people of England love them. Let not the people of England imagine that the Colonists have a wish but for their welfare, and to partake of it as fellow-subjects — For the people of the colonies would sacrifice their dearest interests for the honour and prosperity of their mother country ; and the last wish of their hearts will be for ever to belong to it. I have a right to say this, because experience has given me this impression of them. I do not say it to flatter them ; I never did flatter them, when I was connected with them in business, but I speak it as a truth which I think should be known, lest the intemperance and imprudence of their false or mistaken patriots should give any undue impressions to their disadvantage, and cause any alienation of that natural affection which at present subsists,  
and

## DEDICATION.

and will, I hope, for ever subsist between the people of Great Britain and those of the colonies.

May that minister who shall interweave the administration of the colonies into the British administration, as a part essentially united with it, may he live to see the power, prosperity, and honour, that so great and important an event must give to his country.

With the highest esteem and regard, I have the honour to be,

S I R,

Your most obedient,

and most humble servant,

T. POWNALL.





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T A B L E

O F

C O N T E N T S.

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THE  
ADMINISTRATION  
OF THE  
COLONIES.

THE several changes in interests and territories, which have taken place in the colonies of the European world on the event of Peace, have occasioned a general idea of some new state of things arising, of some new channel of business opening which may be applied to new powers ;——which ought to be guarded against, on one hand, or that is to be carried to advantage on the other. There is an universal apprehension of some new crisis forming: yet one does not find any one precise comprehensive idea of this crisis: and consequently, all that is proposed, is by parts, without connection to any whole; in tem-  
B porary

porary expedients without general reference to that eventual state of things which may be the effect of such measures or expedients. Our politicks have regard only to particular branches, without any systematical police, directed to the interest of all as of a One Whole.

This state of the business has tempted me to hazard my sentiments on this subject. My particular situation in time past gave me early opportunity of seeing and observing the state of things, which have been long leading to this crisis. I have seen and mark'd, where it was my duty, this nascent crisis at the beginning of this war, and may affirm, have foreseen and foretold the events that now form it. My present situation by which I stand unconnected with the politics of ministry, or of the colonies, opens the fairest occasion to me of giving to the public, whom it concerns, such an impartial uninfluenced opinion of what I think to be the right of things, as I am convinced the following sheets contain. I know what effect this conduct will have, what it has had, on this work and on myself. I may be thought neither by the ministry nor the Colonists to understand this subject, the one may call this work the vision of a theorist, the other will represent the doctrine which it contains, as  
the



the prejudices of power and ambition. The one may think me an advocate for the politicks of the colonies, the other will imagine me to be an evil counsellor against the colonies to the ministry: But as I know that my aim is, without any prudential view of pleasing others or of my own interest, to point out and to endeavour to establish an idea of the true interest of the colonies, and of the mother country as related to the colonies, I shall equally disregard what varies from this on the one hand, and equally reject what deviates from it on the other.

In the first uncultur'd ages of Europe, when men sought nothing but to possess, and to secure possession, the power of the *sword* was the predominant spirit of the world; it was that, which formed the Roman empire; and it was the same, which, in the declension of that empire, divided again the nations into the several governments formed upon the ruins of it.

When men afterward, from leisure, began to exercise the powers of their minds in (what is called) learning; religion, the only learning at that time, led them to a concern for their spiritual interests, and consequently led them under their spiritual guides. The power of *religion* would hence as naturally

predominate and rule, and did actually become the ruling spirit of the policy of Europe. It was this spirit, which, for many ages formed, and gave away kingdoms; this which created the anointed Lords over them, or again excommunicated and execrated these sovereigns; this that united and allied the various nations, or plung'd them into war and bloodshed; this, that formed the ballance of the power of the whole, and actuated the second grand scene of Europe's history.

But since the people of Europe have formed their communication with the commerce of Asia; have been, for some ages past, settling on all sides of the Atlantic Ocean, and in America, have been possessing every seat and channel of commerce, and have planted and raised that to an interest which has taken root;—since they now feel the powers which derive from this, and are extending it to, and combining it with others; the spirit of *commerce* will become that predominant power, which will form the general policy, and rule the powers of Europe: and hence a grand commercial interest, the basis of a great commercial dominion, under the present state and circumstances of the world, will be formed and arise. The rise and forming of this commercial interest is what precisely constitutes the present crisis.

The

The European possessions and interests in the Atlantic and in America lye under various forms, in plantations of sugar, tobacco, rice, and indigo, in farms of tillage and pasture, in fisheries, Indian hunts, forests, naval stores, and mines ; each different scite produces some special matter of supply necessary to one part of that food and raiment become requisite to the present state of the world ; but is, as to its own local power of produce, totally destitute of some other equally necessary branch of supply. The various nature of the lands and seas lying in every degree and aspect of climate, and the special produce and vegetation that is peculiar to each, forms this local limited capacity of produce. At the same time that nature has thus confined and limited the produce of each individual scite to one, or at most to few branches of supply, at the same time hath she extended the necessities of each to many branches beyond what its own produce can supply. The West India islands produce sugar, melosses, cotton, &c. they want the materials for building and mechanics, and many the necessities of food and raiment : The lumber, hides, the fish, flour, provisions, live-stock, and horses, produced in the northern colonies on the continent, must supply the islands with these requisites. On the other hand, the sugar and melosses of the

sugar islands is become a necessary intermediate branch of the North American trade and fisheries. The produce of the British sugar islands cannot supply both Great Britain and North America with the necessary quantity ; this makes the melasses of the foreign sugar islands also necessary to the present state of the North American trade. Without Spanish silver, become necessary to the circulation of the British American trade, and even to their internal course of sale and purchase, not only great part of that circulation must cease to flow, but the means of purchasing the manufactures of Great Britain would be equally circumscribed : Without the British supplies, the Spanish settlements would be scarce able to carry on their culture, and would be in great distress. The ordinary course of the labour and generation of the negroes in the West India islands makes a constant external supply of these subjects necessary, and this connects the trade of Africa with the West Indies ; the furr and Indian trade, and the European goods necessary to the Indian, are what form the Indian connection.—I do not enter into a particular detail of all the reciprocations of those wants and supplies, nor into a proof of the necessary interconnections arising from thence ; I only mark out the general *traites* of these, in order to explain what I mean when I say, that by the limitation  
of

of the capacities and extent of the necessities of each, all are interwoven into a necessary intercourse of supplies, and all indissolubly bound in an union and communion of *one general composite interest* of the whole of the Spanish, French, Dutch, Danish, and British settlements. This is the *natural state* of the European possessions in the Atlantic and in America ; this general communion is that natural interest under which, and by which, they must subsist. On the contrary, the spirit of policy, by which the mother countries send out and on which they establish colonies, being to confine the trade of their respective colonies solely to their own special intercourse, and to hold them incommunicable of all other intercourse or commerce, the *artificial or political state* of these colonies becomes distinct from that which is above described as their natural state.—The political state is that which policy labours to establish by a principle of repulsion ; the natural one is that state under which they actually exist and move by a general, common, and mutual principle of attraction. This one general interest thus distinct must have some one general tendency or direction distinct also, and peculiar to its own system. There must be some center of these composite movements, some lead that will predominate and govern in this general interest—



That particular branch of business and its connections in this general commercial interest, which is most extensive, necessary, and permanent, settles and commands the market; and those merchants who actuate this branch must acquire an ascendancy, and will take the lead of this interest. This lead will predominate throughout the general intercourse, will dissolve the effect of all artificial connections which government would create, and form the natural connections under which these interests actually exist,—will supersede all particular laws and customs, and operate by those which the nature and actual circumstances of the several interests require. This lead is the foundation of a commercial dominion, which, whether we attend to it or not, will be formed: whether this idea may be thought real or visionary is of no consequence as to the existence and procession of this power, for the interest, that is the basis of it, is already formed;—yet it would become the wisdom, and is the duty of those who govern us, to profit of, to possess, and to take the lead of it already formed and arising fast into dominion; it is our duty so to interweave those nascent powers into, and to combine their influence with, the same interests which actuate our own government; so to connect and combine the operations of our trade with this interest, as to partake of  
its

its influence and to build on its power. Although this interest may be, as above described, different and even distinct from the peculiar interests of the mother countries, yet it cannot become independent, it must, and will fall under the dominion of *some* of the potentates of Europe. The great question at this crisis is, and the great struggle will be, which of those states shall be in those circumstances, and will have the vigour and wisdom so to profit of those circumstances, as to take this interest under its dominion, and to unite it to its government. This lead seemed at the beginning of the late war to oscillate between the English and French, and it was in this war that the dominion also hath been disputed. The lead is now in our hands, we have such connection in its influence, that, whenever it becomes the foundation of a dominion, that dominion must be ours.

It is therefore the duty of those who govern us, to carry forward this state of things to the weaving of this lead into our system, that Great Britain may be no more considered as the kingdom of this Isle only, with many appendages of provinces, colonies, settlements, and other extraneous parts, but as a grand marine dominion consisting of our possessions in the Atlantic and in America  
united



united into a one Empire, in a one center, where the seat of government is.

As the rising of this crisis above described, forms precisely the *object* on which government should be employed; so the taking leading measures towards the forming all those Atlantic and American possessions into one Empire of which Great Britain should be the commercial and political center, is the *precise duty* of government at this crisis.

The great minister, whose good fortune shall have placed him at this crisis, in the administration of these great and important interests—will certainly adopt the system which thus lies in nature, and which by natural means alone, if not perverted, must lead to a general dominion, founded in the general interest and prosperity of the commercial world, must build up this country to an extent of power, to a degree of glory and prosperity, beyond the example of any age that has yet passed;—\* *id est viri et ducis non deesse fortunæ præbenti se, et oblata casu flectere ad concilium.*

The forming some general system of administration, some plan which should be (whatever may be the changes of the mini-

\* Liv. l. 28. § 44.

stry at home, or in the governors and officers employed abroad) uniformly and permanently pursued by measures founded on the actual state of things as they arise, leading to this great end, *is, at this crisis, the precise duty of government.* This is an object which ought not to be overlooked or mistaken. It ought not to be a state mystery, nor can be a secret. If the Spanish, French, and Dutch governments can oppose it, they will; but if it be founded in nature, such opposition will only hasten its completion, because any measures of policy which they can take to obstruct it, must either destroy the trade of their own colonies, or break off their connection. If they attempt to do this by force, they must first form an alliance, and settle the union of their mutual interests, and the eventual partition of the effect of it; but this will prove a matter of more difficulty, than can easily be compassed, and under the disadvantages created thereby, there will be much hazard of the utmost effort of their united forces.

To enable the British nation to profit of these present circumstances, or of the future events, as they shall successively arise in the natural procession of effects, it is necessary, that the administration form itself into such establishments for the direction of these in-  
terests

terests and powers, as may keep them in their natural channel, as may maintain their due connections with the government, and lead them to the utmost effect they are capable of producing towards this grand point.

The first spring of this direction, the basis of this government, is the administration at home. If that department of administration, which should have the direction of these matters, be not wisely and firmly bottomed, be not so built, as to be a *practical*—be not so really supported by the powers of government, as to be an *efficient administration*, all measures for the administration of these interests, all plans for the government of these powers are vain and self-delusive; even those measures that would regulate the movements and unite the interests under a practical and efficient administration, become mischievous meddling impertinencies where that is not, and must either ruin the interests of these powers, or render a breach of duty necessary to avoid that ruin.

That part of government, which should administer this great and important branch of business, ought, in the first place, to be the center of all information and application from all the interests and powers which form it; and ought from this center, to be able, fully,

fully, uniformly, and efficiently, to distribute its directions and orders. Wherever the wisdom of state shall determine that this center of information shall be fixed; from whatever department all appointments, orders, and executive administration shall issue, it ought somewhere to be fixed, known, of record, and undivided; that it may not be partial, it ought to extend to all times, and all cases. All application, all communication, all information should center immediately and solely in this department: this should be the spring of all nominations, instructions, and orders.—It is of little consequence where this power of administration is placed, so that the department be such, as has the means of knowledge of its business—is specially appropriated to the attention necessary to it—and officially so formed as to be in a capacity of executing it. Whether this be a Secretary of State, or the Board of Trade and Plantations, is of no consequence; but it ought to be intirely in either the one or the other. Where the power for the direction is lodged, there ought all the knowledge of the department to center; therefore all officers, civil or military, all servants of the government, and all other bodies or private persons ought to correspond immediately with this department, whether it be the Secretary of State or the Board of Trade.

While

While the military correspond with the Secretary of State, the civil in one part of their office with the Secretary of State, in another with the Board of Trade ; while the navy correspond in matters not merely naval with the Admiralty, while the engineers correspond with the Board of Ordnance, officers of the revenue with the several boards of that branch, and have no communication with the department which has, or ought to have, the general direction and administration of this great Atlantic and American, this great commercial interest, who is to collect ? who does, or ever did collect, into a one view, all these matters of information and knowledge ? What department ever had, or could have, such general direction of it, as to discuss, compare, rectify and regulate it to an official real use ? In the first place, there never was yet any one department form'd for this purpose ; and in the next, if there was, let any one acquainted with business dare to say, how any attempt of such department would operate on the jealousies of the others. Whenever, therefore, it is thought proper (as most certainly it will, some time or other, tho' perhaps too late) to form such department, it must (if I may so express myself) be sovereign and supreme, as to every thing relating to it ; or to speak plainly out, *must*



*be a secretary of state's office in itself.* When such is form'd, although the military, naval, ordnance, and revenue officers, should correspond, in the matters of their respective duties, with the departments of government to which they are more immediately subordinate and responsible, yet, in general matters of information, or points which are matters of government, and the department of this state office, they should be instructed to correspond and communicate with this minister. Suppose that some such minister or office now existed, is it not of consequence that he should be acquainted with the Geography of our new acquisitions? If, therefore, there have been any actual surveys made of them, should not such, or copies of such, be sent to this minister or office? If a due and official information of any particular conduct in our colonies, as to their trade, might lead to proper regulations therein, or might point out the necessity of a revision of the old laws, or the making further provision by new ones, would it not be proper that the custom-house officers settled there should be directed to correspond and communicate with this minister, or office, on these points? Would it interfere with their due subordination, as officers of the revenue, to the commissioners of the customs?—If there were any events arising,  
or

or any circumstances existing, that might affect the state of war or peace, wherein the immediate application of military operations were not necessary or proper, should not the military and naval officers be directed to communicate on these matters with this minister, or office? Should not, I say, all these matters of information come officially before this minister, if any such state minister, or office, was established?

As of information and knowledge centering in a one office, so also of power of executing, it should spring from one undivided department. Where the power of nominating and dismissing, together with other powers, is separated from the power of directing, the first must be a mere privilege or perquisite of office, useless as to the king's business or the interest of his colonies, and the latter must be inefficient. That office, which neither has the means of information, nor can have leisure to attend to the official knowledge produced thereby, nor will be at the trouble to give any official directions, as to the ordinary course of the administration of the American matters, must certainly be always, as it is, embarrassed with the power of nomination, and fetter'd with the chain of applications, which that power drags after it. On the other hand, what effect



effect will any instructions, orders or directions, have from that board, which has not interest to make or dismiss one of the meanest of its own officers : this, which is at present the only official channel, will be despised ; the governors, nay, every the meanest of the officers in the plantations, looking up solely to the *giving power*, will scarce correspond with the *directing*—nay, may perhaps contrive to make their court to the one, by passing by the other. And in any case of improper conduct of these officers, of any neglect of duty, or even of misdemeanour ; what can this directing power do, but complain to the minister who nominates, against the officers appointed by him ? If there be no jealousies, no interfering of interests, no competitions of interfering friends, to divide and oppose these two offices to each other : if the minister is not influenced to continue, upon the same motives upon which he first appointed ; if he does not see these complaints in a light of opposition to his nomination and interest ; some redress may, after a due hearing between the party and the office, be had ;—the authority of the board may be supported, and a sort of remedy applied to the special business, but a remedy worse than the disease—a remedy that dishonours that board, and holds it forth to

the contempt of those whom it ought to govern.

It is not only from the natural impracticability of conducting this administration under a divided State of power and direction, that the necessity of forming a some one state office, or minister of state, for the executing it arises: but the very nature of the business of this department, makes the officer who is to administer it a state officer, a minister for that department, and who ought to have immediate access to the closet. I must here repeat, that I am no partizan of the Secretary of State's office, or for the Board of Trade: I have ceased to have any connection of business with either, and have not the least degree of communication with the one or the other. Without reference, therefore, to either, but with all deference to both, I aim to point out, that the department of the administration of Trade and plantations, be it lodged where it may, should be a State office, and have a minister of state. That office, or officer, in a commercial nation like this, who has the cognizance and direction (so far as Government can interfere) of the general trade of the kingdom—whose duty it is to be the depository and reporter of the state and condition of it; of every thing which may advance or obstruct it, of the  
state

state of manufactures, of the fisheries, of the employment of the poor, of the promoting the labour and riches of the country, by studying and advising every advantage, that can be made of every event which arises in commercial politics; every remedy, which can remove any defect or obstruction;—who is officially to prepare every provision or revision necessary in the laws of trade, for the consideration of parliament; and to be the conductor of such thro' the necessary measures—is certainly an officer of state, if the Secretary of State, so call'd, is. That office, or officer, who has cognizance and direction of the plantations in every point of government, in every matter judicial or commercial; who is to direct the settlements of colonies, and to superintend those already settled; who is to watch the plantations in all these points, so far as they stand related to the government, laws, courts and trade of the mother country——is certainly an officer of state, if the Secretary of State, so called, is. That office, or officer, who is to report to his Majesty in council on all these points; whose official *fiat*, or negative, will be his Majesty's information in council, as to the legislature in the colonies—is certainly an officer of state. That office, or officer, who is to hear and determine on all matters of complaint, and mal-administration, of

the crown officers and others, in the plantations; and can examine witnesses on oath—is surely an officer of state. That office, or officer, who is to correspond with all the servants of the crown on these points, and to be the issuer of his Majesty's orders and instructions to his servants, on these many, great, and important points of state—is certainly his Majesty's secretary, and certainly a secretary of state.

But if it be considered further, who the persons are, that constitute the very great and extensive commission of the Board of Trade and Plantations; namely, all the great officers of state for the time being, with the bishop of London, the secretaries of state for the time being, and those more especially called the commissioners of trade, it will be seen, that it is no longer a doubt or a question, as to its being an office of state: it is actually so; and has, as an office, as a board, immediate access to his Majesty in council, even to the reporting and recommending of officers. This was the plan whereon it was originally founded, at its first institution, by Lord Sommers.

That great statesman and patriot saw that all the powers of government, and several departments of administration disunited,  
were

were interfering with, and obstructing each other on this subject, and not they only here in England, but that the respective officers of these several departments carried all this distraction into the detail of their business in the colonies, which I am afraid is too much the case even at this day : he saw that this administration could not be conducted but by an intire union of all the powers of government, and on that idea formed the board of trade and plantations, where, and where alone, these powers were *united in a one office*. In which office, and in which alone, all the business of the colonies ought therefore to be administered ; for if such union be necessary, here alone is that *official union*. Unhappily for the true interest of government, partly from an intire neglect of this administration in time past, and partly from the defective partial exercise of it, since some idea of these matters began again to revive, this great and wise plan hath been long refused ; but it is fortunate for the public in this important crisis, that such is the temper of particulars, such the zeal of all for his Majesty's service, such the union of his servants, that the spirit of service predominates over these natural defects : so that all who wish well to the interest of this country, in its trade and colonies, may hope to see that union, at present only ministerial, be-



come *official* in this business, and revive again that great, wise, and constitutional plan of office, actuated under the real spirit of it.

The only question at present is, who shall be the executive officer of this department of state; whether the secretary of state, properly so called; or the first lord, and other commissioners, properly called *the board of trade*; or whether it shall remain divided, as it is, between the several great departments of administration; *or whether some more official and practical division of this administration may not be made.*

Suppose now, it should be thought proper, that this administration be placed in the secretary of state's office, all the administration of the plantations may be given to the southern department: yet the great object of the general trade of Great Britain must be divided between the southern and the northern, as the matters of consideration happen to lye in the one or in the other department; and how will the southern department act, when any matter of commerce arises in the plantations, that has special connections or interferences with the Dutch, Hamborough, Danish or Russian trade?

It

It cannot lie in the board of trade, properly so called, until it be found proper, and becomes a measure of government to erect that board into a secretary of state's office for this department, which, first or last, it most certainly will do. That, therefore, the great business of trade and plantations may not run into confusion, or be at a stand;—that it may be carried to the effect proposed, held forth, and desired by government, and necessary to it; all that can be done at present is, to put the whole executive administration, the nomination, correspondence, issuing of constructions, orders, &c. under the secretary of state, if he has leisure to attend to it, and can undertake it; and to make the board of trade a mere committee of reference and report; instead of reporting to the king in council, to report to the secretary of state, who shall lay the matters before his Majesty, and receive and issue his orders;—who shall refer all matters to this committee, for their consideration, and shall conduct through the legislature all measures necessary to be determined thereby. If this be not practicable, there is no other alternative, than to do directly what ought to be done, and what, some time or other, must be done; the making the officer who conducts this department a minister for that department, with all the powers necessary thereto. For



until a practical and efficient administration be formed, whatever the people of this country may think, the people of the colonies, who know their business much better than we do, will never believe government is in earnest about them, or their interest, or even about governing them; and will, not merely from that reasoning, but from necessity of their circumstances, act accordingly.

Knowing, therefore, that first or last, the nature and state of the king's service must, in spite of every idea to the contrary, bring this measure into execution, I have only cursorily suggested some hints of the grounds on which it will arise: but removed as I am from every communication with administration, and uninformed, I have not presumed to enter into the discussion of this great point. Wherever it is taken up, it must be by persons who, with the benefit of real, official information, and confidential knowledge of measures, must have superior, and the only lights, in which it ought to be viewed, and determined.

Upon a supposition, therefore, that this matter is settled, as most certainly it will be, some time or other, I will proceed, confining myself solely to the matters of the colonies,

nies, to review some points that deserve, and will require, the consideration of government, if it ever means to profit of, and lead the great Atlantic and American interest which it has acquired, and to unite it to its dominion.

Whenever this necessary measure of making that department of administration, which is to direct the trade and plantations of this kingdom, a secretary of state's office, is carried into execution, the several points explained in the following observations will be taken up, *as matters of business*; but until that time comes, they will be treated *as matters of speculation*, and mere useless, opprobrious theory.

Before entering into these matters, I do not think it would be impertinent just to mark the idea of colonies, and their special circumstances, which makes it a measure in commercial governments, to establish, cultivate, and maintain them.

The view of trade in general, as well as of manufactures in particular, terminates in securing an extensive and permanent vent; or to speak more precisely, (in the same manner as shop-keeping does) in having many and good customers: the wisdom, there-

therefore, of a trading nation, is to gain, and to create, as many as possible. Those whom we gain in foreign trade, we possess under restrictions and difficulties, and may lose in the rivalry of commerce: those that a trading nation can create within itself, it deals with under its own regulations, and makes its own, and cannot lose. In the establishing colonies, a nation creates people whose labour, being applied to new objects of produce and manufacture, opens new channels of commerce, by which they not only live in ease and affluence within themselves, but, while they are labouring under and for the mother country, (for there all their external profits center) become an increasing nation, of appropriated and good customers to the mother country. These not only increase our manufactures, encrease our exports, but extend our commerce; and if duly administered, extend the nation, its powers, and its dominions, to wherever these people extend their settlements. This is, therefore, an interest which is, and ought to be dear to the mother country: this is an object that deserves the best care and attention of government: and the people, who through various hardships, disasters, and disappointments; through various difficulties and almost ruinous expences, have wrought up this interest to  
such

such an important object, merit every protection, grace, encouragement, and privilege, that are in the power of the mother country to grant.—It is on this *valuable consideration*, (as Mr. Dummer, in his spirited defence of the colonies says) that they have a right to the grants, charters, privileges and protection which they receive; and also on the other hand, it is from these grants, charters, privileges and protection given to them, that the mother country has an exclusive right to the external profits of their labour, and to their custom. As it is the right, so it becomes the duty of the mother country to nourish and cultivate, to protect and govern the colonies: which nurture and government should precisely direct its care to two essential points. 1st, That all the profits of the produce and manufactures of these colonies center finally in the mother country: and 2dly, That the colonies continue to be the sole and proper customers of the mother country.—To these two points, collateral with the interests, rights and welfare of the colonies, every measure of administration, every law of trade should tend: I say collateral, because, rightly understood, these two points are mutually coincident with the interests, rights and welfare of the colonies.

It

It has been often suggested, that care should be taken in the administration of the plantations; lest, in some future time, these colonies should become independent of the mother country. But perhaps it may be proper on this occasion, nay, it is justice to say it, that if, by becoming independent is meant a revolt, nothing is further from their nature, their interest, their thoughts. If a defection from the alliance of the mother country be suggested, it ought to be, and can be truly said, that their spirit abhors the sense of such; their attachment to the protestant succession in the house of Hanover will ever stand unshaken; and nothing can eradicate from their hearts their natural, almost mechanical, affection to Great Britain, which they conceive under no other sense, nor call by any other name, than that of *home*. Besides, the merchants are, and must ever be, in great measure allied with those of Great Britain; their very support consists in this alliance, and nothing but false policy here can break it. If the trade of the colonies be protected and directed from hence, with the true spirit of the act of navigation, that spirit under which it has risen, no circumstances of trade could tempt the Colonists to certain ruin under any other connections. The liberty and religion of the British colonies are incompatible with  
either



either French or Spanish government; and they know full well, that they could hope for neither liberty nor protection under a Dutch one. Any such suggestion, therefore, is a false and unjust aspersión on their principles and affections; and can arise from nothing but an intire ignorance of their circumstances. Yet again, on the other hand, while they remain under the support and protection of the government of the mother country; while they profit of the beneficial part of its trade; while their attachment to the present royal family stands firm, and their alliance with the mother country is inviolate, it may be worth while to inquire, whether they may not become and act independent of the *government and laws* of the mother country:—and if any such symptoms should be found, either in their government, courts, or trade, perhaps it may be thought high time, even now, to inquire how far these colonies are or are not arrived, at this time, at an independency of the government of the mother country:—and if any measure of such independency, formed upon precedents unknown to the government of the mother country at the time they were form'd, should be insisted on, when the government of the mother country was found to be so weak or distracted at home, or so deeply engaged abroad

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in Europe, as not to be able to attend to, and assert its right in America, with its own people:—perhaps it may be thought, that no time should be lost to remedy or redress these deviations—if any such be found; or to remove all jealousies arising from the idea of them, if none such really exist.

If the colonies are to be possessed, as of right, and governed by the crown, as demesnes of the crown, by such charters, commissions, instructions, &c. as the crown shall, from time to time, grant or issue; then a revision of these charters, commissions, instructions, so as to establish the rights of the crown, and the privileges of the people, as thereby created, is all that is necessary. But while the crown may, perhaps justly and of right, *in theory*, consider these lands, and the plantations thereon, as its demesnes, and as of special right properly belonging to it; not incorporated and of common right with the dominions and realm of Great Britain: in consequence of which theory, special rights of the crown are there established; and from which theory, the special modification under which the people possess their privileges is derived.—While this is the idea on one hand, the people on the other say, that they could not forfeit, nor lose the common rights and privileges of  
English-



Englishmen, by adventuring under various disasters and difficulties, under heavy expences, and every hazard, to settle these vast countries, to engage in untried channels of labour, thereby increasing the nation's commerce, and extending its dominions; but that they must carry with them, wherever they go, the right of being governed only by the laws of the realm; only by laws made with their own consent:—that they must ever retain with them the right of not being taxed without their own consent, or that of their representatives; and therefore, as it were by nature divided off from the share of the general representation of the nation, they do not hold, by tenor of charter or temporary grant, in a commission, but by an inherent, essential right, the right of representation and legislature, with all its powers and privileges, as possessed in England. It is, therefore, that the people do, and ever will, until this matter be settled, exercise these rights and privileges after the precedents formed here in England, and perhaps carried, in the application, even further, than they ever were in England; and not under the restriction of commissions and instructions: and it is therefore also, in matters where laws, made since their establishment, do not extend to them by special proviso, that they claim the right of direct-

ing themselves by their own laws. While these totally different ideas of the principles, whereon the government and the people found their claims and rights, remain unsettled and undetermined, there can be nothing but discordant jarring, and perpetual obstruction in the exercise of them; —there can be no government, properly so called, but merely the predominancy of one faction or the other, acting under the mask of the forms of government. This is the short and precise abstract of the long and perplexed history of the governments and administrations of the colonies, under the various shapes with which their quarrels have vexed themselves, and teized government here in Britain.

If this idea of the crown's right to govern these as demesnes be just, and be as right in fact, as it is supposed to be in theory, let it be settled and fixed by some due and sufficient authority, what it is, and how far it extends. But this is not all ; let it be so established, that where it ought, it may actually, and in practice, be carried into execution also. If this right be doubted ; or if, being allowed, it finds itself in such circumstances as not to be able to carry its powers into execution, it will then become an object of government, to see that these colonies

colonies be governed, and their affairs administered some other way. There is no doubt in the theory of our constitution of the king's right, in time of war and array, to exercise martial law : and yet in practice it has been found right, (and would not otherwise be permitted) that this martial law should be confirmed by parliament.

If, therefore, the several points wherein the crown, or its governors acting under its instructions, differ with the people be considered, and it be once determined what, in order to maintain the subordination of the government of the colonies to the government of Great Britain, is necessary to be done,—the mode of doing that will be easily settled. If it be a point determined, that it lies wholly with the crown to fix and actuate this order of government—the crown will duly avail itself of that power, with which it is entrusted, to enforce its administration. But if it be found that, however this may lie with the crown as of right, yet the crown is not in power to establish this right,—it will of course call in aid the power of the legislature, to confirm and establish it. But if, finally, it should appear, that these colonies, as corporations within the dominions of Great Britain, are included within the imperium of the realm of the same,—it

will then of right become the duty of legislature to interpose in the case; to regulate and define their rights and privileges; to establish and order their administration; and to direct the channels of their commerce. Tho' the first of these measures should be, in strict justice, the crown's right—yet the second is the only next practicable one: and altho' the second, as such, may most likely be adopted—yet the third is the only wise and sure measure. In the second case, the crown, having formed its several general instructions for the several governments, according to their various charters, grants, and proprietaries, will order the same, in those points which it cannot influence and determine by the effect of its own negative, to be laid before parliament, to be considered and confirmed by the legislature, in the same manner as are the rules for governing the army. In the third case, the crown will order its ministry to lay before parliament, the rights and powers of the crown; the rights, privileges and claims of the people; with a general state of the colonies, their interest and operations, as related to the crown, as related to the mother country, as related to foreign powers and interests, and to the colonies of foreign powers, as related to the laws and government of the mother country;—perhaps pointing out some general plan

plan of government, judicatory, revenue and commerce, as may become, what I hinted at in the beginning of this paper—*a leading measure to the forming Great Britain, with all its Atlantic and American possessions, into one great commercial dominion.* In the one case, the instructions of the crown, either some general form of such, or the special ones given to each governor, on each fresh nomination, will be confirm'd by parliament, as the rules and orders for governing the army are. In the other, a general bill of rights, and establishment of government and commerce on a great plan of union, will be settled and enacted: the governments of the several colonies, on the continent and in the islands, will be considered as so many corporations, holding their lands in common soccage, according to the manor of East Greenwich, united to the realm; so that, for every power, which they exercise or possess, they will depend on the government of Great Britain; so that, in every movement, they may be held, each within its proper sphere, and be drawn and connected to this center: and as forming a one system, they will be so connected in their various orbs and subordination of orders, as to be capable of receiving and communicating, from the first mover (the government of Great Britain) any political motion, in the direction



in which it is given. Great Britain, as the center of this system, must be the center of attraction, to which these colonies, in the administration of every power of their government, in the exercise of their judicial powers, and the execution of their laws, and in every operation of their trade, must tend. They will be so framed, in their natural and political interests; in the rights, privileges, and protection they enjoy; in the powers of trade, which they actuate, under the predominating general commerce of the nation, that they will remain under the constant influence of the attraction of this center; and cannot move, but that every direction of such movement will converge to the same. At the same time that they all conspire in this one center, *they must be guarded against having, or forming, any principle of coherence with each other above that, whereby they cohere in this center;* having no other principle of intercommunication between each other, than that by which they are in joint communion with Great Britain as the common center of all. At the same time that they are, each in their respective parts and subordinations, so framed, as to be actuated by this first mover,—they should always remain incapable of any coherence, or of so conspiring amongst themselves, as to create any other equal force,  
which



which might recoil back on this first mover ; nor is it more necessary to preserve the several governments subordinate within their respective orbs, than it is essential to the preservation of the empire to keep them disconnected and independent of each other : they certainly are so at present ; the different manner in which they are settled, the different modes under which they live, the different forms of charters, grants and frame of government they possess, the various principles of repulsion that these create, the different interests which they actuate, the religious interests by which they are actuated, the rivalry and jealousies which arise from hence, and the impracticability, if not the impossibility of reconciling and accommodating these incompatible ideas and claims, will keep them for ever so. And nothing but a tampering activity of wrongheaded inexperience mislled to be meddling, can ever do any mischief here. The provinces and colonies are under the best form as to this point, which they can be. They are under the best frame and disposition for the government of the mother country (duly applied) to take place. And as there cannot be a more just, so there cannot be a wiser measure than to leave them all in the free and full possession of their several rights and privileges, as by grant, charter, or commis-

sion given, and in the full exercise thereof, so far, and no further, than as derived therefrom. If, upon a revision, there be found any, and perhaps some one such at least, may be found, who have grossly and intentionally transgressed these bounds, such should be an exception to this rule, and be made an example also to others.

Under the guidance therefore of these principles—that the final external profits of the labour and produce of colonies should center in the mother country,—that the colonists are the appropriated special customers of the mother country,—that the colonies, in their government and trade, should be all united in communion with, and subordination to the government of the mother country, but ever disconnected and independent of each other by any other communion than what centers here:—Under the guidance of these principles, with a temper and spirit which remember that these are our own people, our brethren, faithful, good and beneficial subjects, and free-born Englishmen, or by adoption, possessing all the right of freedom:—Under the guidance of these principles, and with this temper and spirit of government,—let a revision be made of the general and several governments of the colonies, of their laws and courts of justice,

tice, of their trade, and the general British laws of trade, in their several relations in which they stand to the mother country, to the government of the mother country, to foreign countries, and the colonies of foreign countries, to one another; and then let those measures be taken, which, upon such a review, shall appear necessary; and all which government can do, or ought to do at present, will be done.

Upon such review it will appear, under this first general head, in various instances, that the two great points which the Colonists labour to establish, is the exercise of their several rights and privileges, as founded in the rights of an Englishman; and secondly, as what they suppose to be a necessary measure in a subordinate government, the keeping in their own hands the command of the revenue, and the pay of the officers of government, as a security of their conduct towards them.

Under the first head come all the disputes about the King's instructions, and the governor's power, as founded on them.

The King's commission to his governor, which grants the power of government, and directs the calling of a legislature, and the establishing courts, at the same time that

it fixes the governor's power, according to the several powers and directions granted and appointed by the commission and instructions, adds, " and by such *further powers*, "*instructions*, and authorities, as shall, at " any time hereafter, be granted or appointed " you, under our signet or sign manual, or " by our order in our privy council." It should here seem, that the same power which framed the commission, with this clause in it, could also issue its *future orders and instructions* in consequence thereof: but the people of the colonies say, that the inhabitants of the colonies are entitled to all the privileges of Englishmen; that they have a right to participate in the legislative power; and that no commands of the crown, by orders in council, instructions, or letters from Secretaries of State, are binding upon them, further than they please to acquiesce under such, and conform *their own actions* thereto; that they hold this right of legislature, not derived from the grace and will of the crown, and depending on the commission which continues at the will of the crown; that this right is inherent and essential to the community, as a community of Englishmen: and that therefore they must have all the rights, privileges, and full and free exercise of their own will and liberty in making laws, which are necessary to that act of legislation,

gillation,—uncontrouled by any power of the crown, or of the governor, preventing or suspending that act; and, that the clause in the commission, directing the governor to call together a legislature by his writs, is declarative and not creative; and therefore he is directed to act conformably to a right actually already existing in the people, &c.

When I speak of full uncontrouled independent powers of debate and result, so far as relates to the framing bills and passing them into laws, uncontrouled by any power of the crown or of the governor, as an essential property of a free legislature; I find some persons in the colonies imagine, that I represent the colonies as claiming a power of legislature independent of the King's or governor's negative.—These gentlemen knowing that it is not my intention to do injustice to the colonies, wish me so to explain this matter, that it may not bear even the interpretation of such a charge—I do therefore here desire, that the reader will give his attention to distinguish a full, free, uncontrouled, independent power, in the act of legislation,—from a full, free, uncontrouled, independent power, of carrying the results of that legislation into effect, independent either of the Governor's or King's negative. The first right is that which I represent the Colo-



Colonists claiming, as a right essential to the very existence of the legislature: The second is what is also essential to the nature of a subordinate legislature, and what the Colonists never call in question. That therefore the point here meant to be stated as in debate, is, Whether a subordinate legislature can be instructed, restricted, and controuled, in the very act of legislation? whether the King's instructions or letters from secretaries of state, and such like significations of his Majesty's will and pleasure, is a due and constitutional application of the governors, or of the royal negative?—The Colonists constantly deny it, —and ministry, otherwise such instructions would not be given, constantly maintain it. After experience of the confusion and obstruction which this dubitable point hath occasioned to business, it is time surely that it were some way or other determined. I do not here enter into the discussion of this point; I only endeavour fairly to state it, as I think it is a matter which ought to be settled some way or other, and ought no longer to remain in contention, that the several matters which stand in instruction, and in dispute in consequence of it, may be finally placed upon their right grounds; in the doing of which it must come under consideration, how far the crown has or has not a right to direct or restrict the legislature of

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the colonies,—or if the crown has not this power; what department of government has, and how it ought to be exercised;—or whether in fact or deed, the people of the colonies, having every right to the full powers of government, and *to a whole legislative power*, are under this claim entitled in the powers of legislature and the administration of government, to use and exercise in conformity to the laws of Great Britain, the same, full, free, independent, unrestrained power and legislative will in their several corporations, and under the King's commission and their respective charters, as the government and legislature of Great Britain holds by its constitution, and under the great charter.

Every subject, born within the realm, under the freedom of the Government of Great Britain, or by adoption admitted to the same, has an essential indefeasible right to be governed, under such a mode of government as has the unrestrained exercise of all those powers which form the freedom and rights of the constitution; and therefore, “the crown cannot establish any colony upon—  
“or contract it within *a narrower scale* than  
“the subject is entitled to, by the great  
“charter of England \*.” The government of

\* Historical Review of the Constitution and Government of Pennsylvania, p. 11.

each colony must have the same powers, and the same extent of powers that the government of Great Britain has,—and must have, while it does not act contrary to the laws of Great Britain, the same freedom and independence of legislature, as the parliament of Great Britain has. This right (say they) is founded, not only in the general principles of the rights of a British subject, but is actually declared, confirmed, or granted to them in the commissions and charters which gave the particular frame of their respective constitutions. If therefore, in the first original establishment, like the original contract, they could not be established upon any scale short of the full and complete scale of the powers of the British government,—nor the legislature be established on any thing less than the whole legislative power; much less can this power of government and legislature, thus established, be governed, directed, restrained or restricted, by any posterior instructions or commands by the letters of Secretaries of State. But upon the supposition, that a kind of general indetermind power in the crown, to superadd instructions to the commissions and charter be admitted, where the Colonists do not make a question of the case wherein it is exerted, yet there are particular cases wherein both directive and restrictive instructions are given, and avowedly not admitted

mitted by the Colonists. It is a standing instruction, as a security of the dependence of the government of the colonies, on the mother country, that no acts wherein the King's Rights, or the rights of the mother country or of private persons can be affected, shall be enacted into a law without a clause suspending the effect thereof, till his Majesty's pleasure shall be known. This suspending clause is universally \* rejected on the principles above, because such suspension disfranchises the inherent full power of legislature, which they claim by their rights to the British liberties, and by the special declarations of such in their charters. It does not remove this difficulty by saying, that the crown has already in its hands the power of fixing this point, by the effect of its negative given to its governor. It is said, that if the crown should withdraw that instruction, which allows certain bills to be passed into laws with a suspending clause, which instruction is not meant as a restriction upon, but an indulgence to the legislatures; that if the crown should withdraw this instruction, and peremptorily restrain its governor from enacting laws, under such circumstances as the wisdom of government cannot admit of,

\* In some cases of emergency, and in the cases of the concerns of individuals, the instruction has been submitted to, but the principle never.

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that then these points are actually fixed by the true constitutional power ; but wherever it is so said, I must repeat my idea, that this does not remove the difficulty. For waving the doubt which the Colonists might raise, especially in the charter colonies, how far the governor ought, or ought not, to be restricted from giving his assent in cases contrary only to instructions, and not to the laws of Great Britain ; waving this point, let administration consider the effects of this measure. In cases where the bills, offered by the two branches, are for providing laws, absolutely necessary to the continuance, support, and exercise of government, and where yet the orders of the crown, and the sense of the people, are so widely different as to the mode, that no agreement can ever be come to in these points.—Is the government and administration of the government of the colonies to be suspended ? The interest, perhaps the being of the plantations, to be hazarded by this obstinate variance, and can the exercise of the crown's negative, in such emergencies, and with such effect, ever be taken up as a measure of administration ? And when every thing is thrown into confusion, and abandoned even to ruin by such measure, will administration justify itself by saying, that it is the fault of the Colonists ? On the contrary, this very state of the  
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case shows the necessity of some other remedy.

The settling and determining this point is of the most essential import to the liberties on one hand, and the subordination on the other, of the government of the colonies to the government of the mother country.—In the examination of this point, it will come under consideration, first, Whether the full and whole of legislature can be any way, in any special case, suspended; and next, whether the crown, by its instructions, can suspend the effect of this legislature, which by its commission or charters it has given or declared; if not, the crown, whether the parliament of Great Britain can do it, and how; whether it should be by act of Parliament, or whether by addressing the crown upon a *declarative vote*, that it would be pleased to provide by its instructions, for the carrying the effect of such vote into execution, as was done in the case of the paper-money currency.

In the course of examining these matters, will arise to consideration the following very material point. As a principal tie of the subordination of the legislatures of the colonies on the government of the mother country, they are bound by their constitutions  
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and charters, to send all *their acts* of legislature to England, to be confirmed or abrogated by the crown; but if any of the legislatures should be found to do almost every act of legislature, by votes or orders, even to the repealing the effects of acts, suspending establishments of pay, paying services, doing chancery and other judicatory business: if matters of this sort, done by these votes and orders, never reduced into the form of an act, have their effect without ever being sent home as acts of legislature, or submitted to the allowance or disallowance of the crown: If it should be found that many, or any of the legislatures of the colonies carry the powers of legislature into execution, independent of the crown by this device,—it will be a point to be determined how far, in such cases, the subordination of the legislatures of the colonies to the government of the mother country is maintained or suspended;—or if, from emergencies arising in these governments, this device is to be admitted, the point, how far such is to be admitted, ought to be determined; and the validity of these votes and orders, these *Senatus Consulta* so far declared. For a point of such great importance in the subordination of the colony legislatures, and of so questionable a cast in the valid exercise of this legislative

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power,



power, ought no longer to remain in question.

The next general point yet undetermined, the determination of which very essentially imports the subordination and dependance of the colony governments on the government of the mother country, is, the manner of providing for the support of government, and for all the executive officers of the crown. The freedom and right efficiency of the constitution require, that the executive and judicial officers of government should be independent of the legislative; and more especially in popular governments, where the legislature itself is so much influenced by the humours and passions of the people; for if they be not, there will be neither justice nor equity in any of the courts of law, nor any efficient execution of the laws and orders of government in the magistracy: according, therefore, to the constitution of Great Britain, the crown has the appointment and payment of the several executive and judicial officers, and the legislature settles a permanent and fixed appointment for the support of government and civil list in general: The crown therefore has, *à fortiori*, a right to require of the colonies, to whom, by its commission or charter, it gives the power of government, such

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permanent support, appropriated to the offices, not the officers of government, that they may not depend upon the temporary and arbitrary will of the legislature.

The crown does, by its instructions to its governors, order them to require of the legislature a permanent support. This order of the crown is generally, if not universally rejected, by the legislatures of the colonies. The assemblies quote the precedents of the British constitution, and found all the rights and privileges which they claim on the principles thereof. They allow the truth and fitness of this principle in the British constitution, where the executive power of the crown is immediately administered by the King's Majesty ; yet say, under the circumstances in which they find themselves, that there is no other measure left to them to prevent the misapplications of public money, than by an annual voting and appropriation of the salaries of the governor and other civil officers, issuing from monies lodged in the hands of a provincial treasurer appointed by the assemblies : For in these subordinate governments, remote from his Majesty's immediate influence, administered oftentimes by necessitous and rapacious governors who have no natural, altho' they have a political connection with the country, experience has shewn that such governors have misapplied the mo-  
nies

nies raised for the support of government, so that the civil officers have been left unpaid, even after having been provided for by the assembly. The point then of this very important question comes to this issue, whether the inconveniencies arising, and experienced by some instances of misapplications of appropriations (for which however there are in the King's courts of law, due and sufficient remedies against the offender) are a sufficient reason and ground for establishing a measure so directly contrary to the British constitution : and whether the inconveniencies to be traced in the history of the colonies, through the votes and journals of their legislatures, in which the support of governors, judges, and officers of the crown will be found to have been withheld or reduced on occasions, where the assemblies have supposed that they have had reason to disapprove the nomination,—or the person, or his conduct ;—whether, I say, these inconveniencies have not been more detrimental, and injurious to government ; and whether, instead of these colonies being dependent on, and governed under, the officers of the crown, the scepter is not reversed, and the officers of the crown dependent on and governed by the assemblies, as the Colonists themselves allow, that this measure \* “ renders the governor,

\* Smith's History of New York, p. 118.

“ and all the other servants of the crown, “ dependent on the assembly.” This is mere matter of experience ; and the fact, when duly enquired into, must speak for itself :—but the operation of this measure does not end here ; it extends to the assuming by the assemblies the actual executive part of the government in the case of the revenue, than which nothing is more clearly and unquestionably settled in the crown. In the colonies the treasurer is solely and entirely a servant of the assembly or general court ; and although the monies granted and appropriated be, or ought to be, granted to the crown on such appropriations, the treasurer is neither named by the crown, nor its governor, nor gives security to the crown or to the Lord High Treasurer, (which seems the most proper) nor in many of the colonies, is to obey the governor’s warrant in the issue, nor accounts in the auditor’s office, nor in any one colony is it admitted, that he is liable to such account. In consequence of this supposed necessity, for the assembly’s taking upon them the administration of the treasury and revenue, the governor and servants of the crown, in the ordinary revenue of government, are not only held dependent on the assembly, but all services, where special appropriations are made for the extraordinaries which such  
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services require, are actually executed and done by commissioners appointed by the assembly, to whose disposition such appropriations are made liable. It would be perhaps invidious, and might tend to prejudging on points which ought very seriously and dispassionately to be examined, if I were here to point out in the several instances of the actual execution of this assumed power, how almost every executive power of the crown lodged in its governor, is, where money is necessary, thus exercised by the assembly and its commissioners. I beg leave here to repeat, that I do not enter into the discussion of these points; my only aim is, fairly to state them, giving the strongest and clearest explanations I am capable of to both sides, that the discussion may be brought to some determinate issue;—and from that state of them to suggest, the absolute necessity there is of their being determined by that part of government, which shall be found to have the right and power to determine them; and to be so determined, that while the rights, liberties, and even privileges of the colonies are preserved, the colonies may be retained in that true and constitutional dependence to the mother country, and to the government of the mother country, which shall unite them to it as parts of one whole.



It is a duty of perfect obligation from government towards the colonies, to preserve the liberty of the subject, the liberty of the constitution : It is a duty also of prudence in government towards itself, as such conduct is the only permanent and sure ground, whereon to maintain the dependance of those countries, without destroying their utility as colonies.

The constitutions of these communities, founded in wise policy, and in the laws of the British constitution, are established by their several charters, or by the King's commission to his governours, being in the nature of a charter of government. In these, all the just powers of government are described and defined, the rights of the subject and of the constitution declared, and the modes of government agreeable thereto established. As these pass under the great seal, no jurisdictions or offices will be inserted in the powers granted, but what are agreeable and conform to law, and the constitution of the realm. This the King's commission is barely a commission during pleasure, to the person therein named as governor, yet it provides for a succession without vacancy, or interregnum, and is not revoked but by a like commission, with like powers : It becomes the known, established constitution of that province which hath been  
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established on it, and whose laws, courts, and whole frame of legislature and judicature, are founded on it : It is the charter of that province : It is the indefeasible and unalterable right of those people : It is the indefeasible right by which those colonies thus established, are the colonies of Great Britain, and therefore not to be altered ; but by such means as any reform or new establishment may take place in Great Britain : It cannot, in its essential parts, be altered or destroyed by any royal instructions or proclamation ; or by letters from secretaries of state : It cannot be superceded, or in part annulled, by the issuing out of any other commissions not known to this constitution.

In these charters, and in these commissions, the crown delegates to the governor for the time being, all its constitutional power and authority civil and military—the power of legislation so far as the crown has such—its judicial and executive powers, its powers of chancery, admiralty jurisdiction, and that of supreme ordinary.—All those powers, as they exist and reside in the crown, are known by the laws and courts of the realm, and as they are derived to the governors are defined, declared, and *patent*, by the charters and commissions *patent*. It is therefore the duty and true interest of the Colonists to maintain

these rights, these privileges, this constitution: It is moreover the duty and true interest of King, Lords, and Commons, to be watchful over, to support and defend these rights of the colonies: It is the duty of administration to have constant regard to the exercise of them, otherwise it will be found a dangerous thing to have given so much of civil power out of the King's hands, and to have done so little to maintain those into whose hands it is entrusted. How far the establishment of the office and power of a military commander in chief, not subordinate but superior to these constitutional commanders in chief, with a jurisdiction extending over the whole of the British empire in America, is conformable to law, to prudence, or sound policy, is matter of very serious consideration.

All military power whatsoever, as far as law and the constitution will justify the establishment of such, is resident in the established office of governor, as Captain general and commander in chief. There is no power here granted, but what is specified and defined by the nature of the constitution. The subject and state is duly guarded against any extensions of it, by the several laws which the legislatures of the several colonies have provided to limit that power; and it  
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can be exercised by none but such persons as are within the jurisdiction of the province, who deriving their powers from the supream powers are amenable to the laws of the province; and to the governor, who is himself specially responsible for the trust. This power thus limited becomes part of the constitution of the province, and unless thus limited, and thus considered as part of the constitution of the government, it may be matter of great doubt, whether the crown would be advised to erect any military powers whatever. But under such limitations, and as a known established part of the constitution, the crown may safely grant these powers, and the people safely live under them, because the governor is "required  
 " and commanded to do and execute all  
 " things in due manner, that shall belong  
 " unto *the trust* reposed in him, according  
 " to the several powers and authorities mentioned in the charter." That is to say, according to those powers which in charter governments are expressly part of the constitution; and which from the very nature of the *commission patent* in such constitutions as are called King's governments, are likewise to be considered in the same light.—When this military branch of the governor's office is established and received as part of the constitution, the King may safely grant,

and the people safely act under “ a power  
 “ to levy, arm, muster, command, and  
 “ employ all persons whatsoever residing  
 “ within such province, to resist and repell  
 “ both at land and sea, all enemies, pirates,  
 “ and rebels, and such to pursue in or out  
 “ of the limits of the province, to erect and  
 “ build forts, to fortify and furnish, and to  
 “ commit the command of the same to such  
 “ person or persons as to such governor shall  
 “ seem meet—and the same again to dis-  
 “ mantle or demolish, and to do and execute  
 “ all and every other thing which to a cap-  
 “ tain general doth or ought of right to be-  
 “ long, as fully and amply as any other the  
 “ King’s captains general doth or hath usual-  
 “ ly done, according to the powers in the  
 “ commission and charter granted.” It be-  
 comes hence a question of highest import, and  
 leading to the most dangerous consequences  
 —Whether, after the constitutions and offices  
 of a colony or province are thus established,  
 the King himself can dismember the same,  
 so as to grant to any office or officer not  
 known to the constitution, any part whatso-  
 ever of those powers, as he cannot dis-  
 franchise a people having such powers, un-  
 der such charters, of any the least right or  
 privilege included in, or as derived from,  
 the establishment of their constitution of  
 government? This is a question that it  
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would behove the crown lawyers well to consider, whenever it shall be referred to their consideration. If every military power that can legally be included in any commission which the crown will be advised to issue, is already included in the office of governor, as part of the constitution of these provinces and colonies, what commission can supercede the same, or give power to any other officer than the governor to exercise these powers within such province? It was suggested by the writer of these papers at the beginning of the late war, that if the necessity of the case in time of war urged to the appointing a military commander in chief of all North America, who should command all military operations, and preside in general over all military establishments for the general service, independent of, and superior to, the powers and authorities already granted to the governors and captains general of the provinces,—it was suggested, that no commissions under the private seal and sign manual could supercede, revoke, or take precedence of these powers granted by letters patent under the great seal, and it was determined accordingly, that the military commander in chief must have his commission patent under the great seal. But when it came to be considered what powers should be granted in this commission, the wisdom and prudence of the great statesman and lawyer  
 who



who was then entrusted with that seal, issued the commission for the commander in chief, in general and indefinite terms, “ to have, “ hold, exercise, and enjoy the said office during pleasure, together with all the powers, “ authorities, rights and privileges, thereunto “ belonging, subject however to such restrictions, limitations, and instructions, as are “ given, or to be given, from time to time, under the royal sign manual, and charging and “ requiring all the governors, lieutenant governors, deputy governors, and presidents “ of the council of the respective colonies and “ provinces of North America, and all other “ officers civil or military within the same, to “ be aiding and assisting in this command.”

These general powers undefined and unknown, and such as no minister who advises the issuing such commission will venture to describe, these general words, power and command, either mean nothing, or suppose every thing, when a justifiable occasion, or perhaps a colourable pretext calls for the exercise of them. It was seen that these general descriptions were either dangerous or nugatory, and therefore the commander in chief had another commission under the private seal and sign manual, in which were inserted all the powers for governing the forces, &c. which were not thought proper to be included and granted by letters patent under the great seal,



seal. I am no lawyer, and do not therefore presume to give an opinion of decision, but venture to affirm, that it ought well to be considered, Whether if this commission be now in time of peace interpreted to extend to any one purpose at all, it must not extend to much more than can be justified by either law or the constitution? Whether (the constitutions of the provinces and colonies remaining) the office of a commander in chief exercising such powers as are supposed necessary *to the execution of that command*, can be established over all North America? These military powers, as they exist in the governor's commission, exist and must be exercised under the civil limitations and regulations of the constitution, nor can any law martial, or any other military ordonnances be published, without the concurrence of the other branches of the legislature. But the difference of this *dictatorial* power of a military commander in chief, and the *consular* power of the provincial governor, can not be better described than in the following passage: *Ea potestas (scilicet dictatoria) per senatum more Romano magistratui maxima permittitur, exercitum parare, bellum gerere, coercere omnibus modis socios atque cives: domi militiæque imperium atque iudicium summum habere: aliter sine populi jussu nullius earum rerum consuli jus est* \*.

\* Sallust, Bellum Catilinarium.

If it should upon consideration and advice, of which I am no judge, be found that the dictatorial power and command of a military commander in chief, superior to the provincial governors (however necessity, in time of war, might justify it, *ne quid respublica detrimenti capiat*) is not agreeable and conformable to law, and to the constitution either of Great Britain or of the colonies in time of peace; it may be supposed that such will not be continued in time of peace, and that as soon as the hostile state of Indian affairs ceases, this power will be made to cease also.

In the considerations above, I have suggested the doubt; whether this commission may be right as to law and the constitution. But if there be only a doubt of its legality, and there no longer remains an absolute necessity for the continuance of it; I think it may be fairly made to appear, that neither prudence nor sound policy can justify it.

Such powers with such a command may be dangerous to the liberty of the subject, to the liberties of the constitution of the colonies on one hand: And on the other hand, there are no people in the whole world, when their liberties shall become infected and undermined, so liable to become the instruments of dominion, as a people who have  
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lived under a free and popular government. This has been the fate of the free states of Greece and Italy ; this the fate of Rome itself :—But may heaven avert, that this ever becomes the state of the British colonies.

There is not, there cannot be any danger in this power at present in any degree ;—but thus planted when it comes to grow, *occulto velut arbor ævo*, when it has taken root, and has spread its branches through the land, it will soon overtop and overshadow all the weaker, humbler shoots of civil liberty. Set once this lord of the forest on a permanent footing, it will soon have, as Mr. Harrington says, “ Toes that have roots, and arms that “ will bring forth what fruit you please.”

It is a common observation, but it is as trivial as common, which supposes the danger of the colonies revolting, and becoming independent of the mother country. No one colony can by itself become so—and no two under the present state of their constitutions, have any possible communion of power or interest that can unite them in such a measure ; they have not the means of forming such ; they have neither legislative nor executive powers, that are extended to more than one ; the laws of one extend not to the other ; they have no common magistracy,  
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no common command, in short, no one principle of association amongst them : On the contrary, as I have said elsewhere, the different manner in which they are settled, the different modes under which they live, the different forms of charters, grants, and frame of government which they possess, the various principles of repulsion that these create, the different interests which they actuate, the religious interests by which they are actuated, the rivalry and jealousies which arise from hence, and the impracticability, if not impossibility, of reconciling and accommodating these incompatible ideas and claims, will keep the several provinces and colonies perpetually independent of, and unconnected with each other, and dependent on the mother country. The particular danger here meant to be pointed out, is that of furnishing them with a principle of union, by establishing a commander in chief over the whole. If ever the colonies revolt, and set up an empire in America, here begins the history of it ; from this period as from the first dynasty, will future historians deduce their narrative. The Romans, as long as they governed their provinces by the vigour of policy, preserved their dependence, and see what that policy was.—I will produce two instances, one in Italy, the other in Greece ; *Cæterum habitari tantum, tanquam urbem,*

*urbem, Capuan, frequentarique placuit : corpus nullum civitatis nec senatûs, nec plebis concilium, nec magistratus esse. sine consilio publico, sine imperio, multitudinem nullius rei inter se sociam ad consensum inhabilem fore\*.*

The other is as follows, after the Romans had entirely overcome Perseus, and reduced all Macedonia, they restore it to its liberty; but to disarm that liberty of all power of revolt, they divide Macedon into four regions or provinces, not barely by boundary lines, and geographical distinctions, but by dissevering and separating their interests; *divisæ Macedoniæ, partium usibus separatis, et regionatim commerciis interruptis†.*

Under this policy they preserved their provinces, and maintained the empire of Rome; but when they took up the false policy of establishing and continuing, in time of peace, military commanders in chief in their provinces, the people of the provinces became an army, and that army subverted

\* Liv. lib. 26. § 16. lib. 45. § 30.

† I beg that it may be here understood, that while by this example, I mean to point the danger of giving any principle of union amongst the several colonies, and the sure wisdom of keeping this disunion of council and imperium amongst them, I do from principles of policy as well as those of strict justice, invariably recommend the preservation of their respective constitutions, in the full use and exercise of all their rights and privileges.



the empire. “ By how much the more remote (says Machiavell) their wars were, by so much they thought those prorogations more convenient, by which it happened that the commander might gain such an interest in the army, as might make it disclaim the power of the senate.” Publius Philo was the first to whom his military commission was prolonged, and this precedent once settled, we hear next of the soldiers in Spain declaring L. Marcius imperator in the field. *Res mali exempli imperatores legi ab exercitibus et solenne auspicatorum comitiorum in castra et provincias, procul ab legibus magistratibusque, ad militarem temeritatem transferri* \*. “ This  
 “ it was that enabled Marcius and Sylla to  
 “ debauch the army ; this it was that en-  
 “ abled Cæsar to conquer his native country.  
 “ It may be objected, that their great affairs  
 “ could not have been managed at so great  
 “ a distance, without such commands :—It  
 “ is possible indeed, that their empire might  
 “ have been longer before it came to that  
 “ height, but then it would have been  
 “ more lasting ; for the adversary would  
 “ never have been able to have *erected a*  
 “ *monarchy* and destroyed their liberty so  
 “ soon.”—This power, monarchical from its very nature, may have been dangerous to

\* Lib. 26. § 2.



a commonwealth, and have ruined the republic by establishing a monarchy upon it; but it will be asked; How can this ever be the case in a regulated monarchy? Can it be supposed that any future King can ever wish to change that constitution in which his power is established? Can it be supposed that a free people could ever be so wild as to put themselves under an unbounded military power, in order to become independent of a limited and civil power? What may be the turn of future events, Heaven only knows; yet experience has taught us that former Kings have thus mistaken their real interest, and former people have been driven to this distraction: And if, on any such future occasion, there should be found established by repeated and continued custom, by unresisted precedents, the office of commander in chief of all North America, not only in the possession, but in the actual exercise of these powers:—*Exercitum parare—bellum gerere—coercere omnibus modis socios atque cives—* He might like another Monck, in such critical situation, give the turn to the balance, and negotiate, either with the prince, or the people, as his inclinations and interests lead him, for the liberties of Great Britain.— If in any future period of events the fate of war should reduce Great Britain to struggle

for its rights, its power, perhaps its safety, on terms hardly equal, with all its force, to its support in Europe; and in the course of that struggle, there be established in North America a commander in chief, with an army at his command; with a degree of authority presiding over the civil power, and civil governors; with an extent of command capable of associating and uniting a number of powers, otherwise, incapable of such union: If such a man, at such a crisis, should have ambition enough to wish, and spirit enough to dare to set up an independent empire in America, he could want, in such crisis, no support that a wise and artful enemy to Great Britain would not give him: *Nunc illud esse tempus occupandi res dum turbata omnia novâ atque inconditâ libertate essent, dum regis stipendiis paſtus obverſaretur miles, dum ab Annibale miſſi duces aſſueti militibus juvare poſſent incepta* \*. The enemy could not wish better ground, than such an establishment so circumstanced at such a crisis, nor could take a more effectual measure for the ruin of Great Britain, than setting up and supporting an American empire; for there could be no doubt of the success of the measure, and no doubt of its effect.

\* Liv. lib. 24. § 24.

The present government found already established, from the necessity of things in the state of the last war, such a power—and as the effects of that war in America can not be said wholly to cease, while the Indian affairs wear such an hostile appearance, this power is for the present continued : But we may confide in the true genuine principles of liberty, which animate the royal breast ; we may trust in the wisdom and prudence of the King's ministry,—that no such officer as that of a military commander in chief, presiding over all North America, and preceeding in military matters, and in the power *necessary to the execution of that command*, the constitutional power of governor ; we may trust, I venture to say, that no such office will ever be made an establishment *in time of peace*. Regular troops are in the same manner and degree necessary in North America, as in Britain or Ireland ;—but we shall see them established there under the same relations to the civil power as in Ireland ; we shall see again the civil governments, as established under commissions patent, and charters, predominate. If I, a private person, and wholly removed from all advice or consultation with ministry, might be permitted to indulge a conjecture, I would suppose, from some leading measures which are already taken, of dividing the American army

into commanderies, and putting a stop to draughts on general contingencies, that the danger and expence of the office of commander in chief, will soon cease: and that the several commandants of the troops appointed, each to their respective districts, having every power necessary for the discipline and government of the regular forces under their command, will be established in the same relation and subordination to the civil power of that government, within which their command lies, as the commander in chief in Ireland stands to the supream civil power of Ireland:—and that as a commander in chief of those forces may in case of the commencement of hostilities, or of actual open war, be again necessary;—if such necessity appears first here in Europe, his Majesty will immediately appoint such, and that if such necessity should appear first in America, there will be proper provision and regulations made for the giving effect to such necessary powers, without leaving it to the judgment or will of the army to say when that is necessary, or what powers in such case are necessary.—The several governors of the colonies should have instructions, in case of such emergency, to meet, and in council to give effect to this command, with such powers as they shall judge necessary and safe to a General commanding in chief, until his Majesty's

Majesty's pleasure can be known ; that is to say, power of engaging in general expences, of ordering embargoes, of demanding vessels and carriages, of calling upon the several governments for their aid in troops, &c. of preparing an army, of taking possession of all posts, forts, and castles, (which in the ordinary course of the King's charters and commissions patent to his governors, must otherwise be under their commands—and cannot be taken from them, unless the charters of the government can be superceded) of having the command and disposal of all military stores—none of which powers ought to reside in any one office, whose jurisdiction extends over all North America, and preceeds the civil power of governor—unless in such case of necessity—unless confirmed (until his Majesty's pleasure can be known) by such council, and under such restrictions as the prudence of that council would see proper. Under such an establishment, every case of service that could arise is provided for, and every case of danger that might arise from a predominant military power, is guarded against.

I must the rather suppose that the military establishment will have that mode given to it ; as already the commander in chief, as the commission now stands, is instructed in



“ making any such preparations as shall be necessary, and are not contained in his instructions, that he shall take the opinion and assistance of the governors.”

A review and settlement of doubted points is no where more necessary, than in the maxims and rules of their law, and the state of their courts. It is a rule universally adopted through all the colonies, that they carried with them to America the common law of England, with the power of such part of the statutes (those concerning ecclesiastical jurisdiction excepted) as were in force at the time of their establishment; but, as there is no fundamental rule whereby to say, what statutes are admissible, and what not, if they admit all, they admit the full establishment of the ecclesiastical jurisdiction, from which they fled to this wilderness for refuge;—if they once make a distinction of admitting some, and rejecting others, who shall draw the line, and where shall it pass? Besides, as the common law itself is nothing but the practice and determination of courts on points of law, drawn into precedents; where the circumstances of a country and people, and their relation to the statutes and common law differ so greatly, the common law of these countries, must, in its natural course, become different, and sometimes even  
con-



contrary, or at least incompatible, with the common law of England, so as that, in some cases, the determinations arising both from the statute and common law *must be rejected*. This renders the judicatories of these countries vague and precarious, dangerous, if not arbitrary: This leads necessarily (let what care will be taken, in forming and enacting their provincial laws) this leads to the rendering the common law of the country different, incompatible with, if not contrary to, and independent of, the law of the mother country, than which nothing can be more disadvantageous to the subject, and nothing more derogatory from the power of the government of the mother country, and from that fundamental maxim, that the Colonists shall have no laws contrary to those of the mother country.

I cannot avoid quoting here at length, a very precise and just observation of the author of the History of New York. “ The  
 “ state of our laws opens a door to much  
 “ controversy. The uncertainty with re-  
 “ spect to them, renders property precari-  
 “ ous, and greatly exposes us to the arbi-  
 “ trary decision of bad judges. The com-  
 “ mon law of England is generally received,  
 “ together with such statutes as were enact-  
 “ ed before we had a legislature of our own ;  
 “ but

“ but our courts exercise a sovereign author-  
 “ rity in determining, *what parts of the*  
 “ *common and statute law* ought to be ex-  
 “ tended ; for it must be admitted, that the  
 “ difference of circumstances necessarily re-  
 “ quires us, in some cases, to *reject* the de-  
 “ termination of both. In many instances,  
 “ they have also extended even acts of par-  
 “ liament, passed since we have had a distinct  
 “ legislation, which is greatly adding to our  
 “ confusion. The practice of our courts is  
 “ not less uncertain than the law. Some of  
 “ the English rules are adopted, others re-  
 “ jected. Two things therefore seem to be  
 “ absolutely necessary for the public security.

“ First, *The passing an act for settling the*  
 “ *extent of the English laws.*

“ *Second'y,* That the courts ordain a ge-  
 “ neral set of rules for the regulation of the  
 “ practice.”

From this representation of things, by an  
 eminent practitioner in those courts, it must  
 be seen that something is wanting, to fix  
 determinately the judicial powers.—But  
 from a further review made by government  
 here, it will be found that much more is  
 wanting.—First, to determine (I do not at  
 all take into consideration which way it be  
 de-

determined, only) I say, to determine some points on this head, which are, and will otherwise remain in dispute; but which ought by no means to be suffered one moment to remain in dispute.

The crown directs its governor to erect courts and appoint the judges thereto.—The actual appointment of the judges is no where *directly* disputed.—But the power of erecting courts, according to this instruction, is, I believe, universally disputed; it being a maxim universally maintained by the Colonists, that no court can be erected but by act of legislature.—Those who reason on the side of the crown,—say,—that the crown does not, by erecting courts in the colonies, claim any right of enacting the jurisdiction of those courts, or the laws whereby they are to act.—The crown names the judge, establishes the court, but the jurisdiction is settled by the laws of the realm;—and “ \* customs, precedents, and common judicial proceedings of a court are a law to the court, and the determination of courts make points to be law.”—The reasoning of the Colonists would certainly hold good against the erection of any new jurisdiction, established on powers not known

\* Rep. 16. 4. Rep. 53. fol. 298.

to the laws of the realm ; but how it can be applied to the opposing the establishment of courts, the laws of whose practice, jurisdiction and powers are already settled by the laws of the realm, *is the point in issue, and to be determined.* It will then be fixed, beyond dispute, whether the crown can, in its colonies, erect, without the concurrence of the legislature, courts of Chancery, Exchequer, King's Bench, Common Pleas, Admiralty, and Probate or Ecclesiastical courts.—If it should be determined in favour of the reasoning, and the claims of the Colonists,—I should apprehend that the consideration of the points under this head, would become an object of government here, even in its legislative capacity.—In which view it may be of consequence to consider, how far, and on what grounds, the rights of the crown are to be maintained by courts of King's Bench, &c. and how far the revenues by courts of Exchequer, and how far the crown and subject may have relief by courts of equity.—If in this view we consider the defects which must be found in Provincial courts, those point out the necessity of the establishment of a remedial general court of Appeal ; but if we view the only mode of appeal, which at present exists, we shall see how inapplicable, how inadequate that court is. I cannot, in one view,  
better

better describe the defects of the provincial courts in these infant governments, than by that very description which my Lord Chief Justice Hales gives of our county courts, in the infancy of our own government, wherein he mentions,

“ *First*, The ignorance of the judges, who were the freeholders of the county.

“ *Secondly*, That these various courts bred variety of law, especially in the several counties, for the decisions or judgments being made by divers courts, and several independent judges and judicatories, who had no common interest amongst them in their several judicatories, thereby in process of time, every several county would have several laws, customs, rules, and forms of proceedings.—

“ *Thirdly*, That all the business of any moment was carried by parties and factions, and that those of great power and interest in the county did easily overbear others in their own causes, or in such wherein they were interested, either by relation of kindred, tenure, service, dependence, or application.”

Upon the first article of this parallel, it will be no dishonour to many gentlemen sitting



ting on the benches of the courts of law in the colonies, to say, that they are not, and cannot be expected to be lawyers, or learned in the law. And on the second article it is certain, that although it be a fundamental maxim of colony administration, that the colonies shall have no laws contrary to the laws of Great Britain, yet, from the fluctuation of resolutions, and confusion in the construction and practice of the law in the divers and several colonies, it is certain, that the practice of their courts, and their common law, must be not only different from each other, but in the consequence different also from that of Great Britain. In all the colonies the common law is received as the foundation and main body of their law ; but each colony being vested with a legislative power, the common law is thereby continually altered ; so that (as a great lawyer of the colonies has said) “ by reason of the diversity of the resolutions, in their respective superior courts, and of the several new acts or laws made in them severally ; the several systems of the laws of those colonies grow more and more variant, not only from one another, but also from the laws of England.”

Under the third article, I fear experience can well say, how powerfully, even in  
 2 courts,



courts, the influence of the leaders of party have been felt in matters between individuals. But in these popular governments, and where every executive officer is under a dependence for a temporary, wretched, and I had almost said, arbitrary support to the deputies of the people,—it will be no injustice to the frame of human nature, either in the person of the judges, of the juries, or even the popular lawyer to suggest, how little the crown, or the rights of government, when opposed to the spirit of democracy, or even to the passions of the populace, has to expect of that support, maintenance, and guardianship, which the courts are even by the constitution supposed to hold for the crown—Nor would it be any injustice to any of the colonies, just to remark in this place, how difficult, if ever practicable it is in any of their courts of common law to convict any person of a violation of the laws of trade, or in any matter of crown revenue. Some of our acts of parliament direct the prosecution and punishment of the breach of the laws of trade, to take its course in the courts of Vice-admiralty: And it has been thought by a very great practitioner, that if the laws of trade were regulated on a practicable application of them to the state of the colony trade, that every breach of them should be prosecuted in the same way. That there should be an  
advo-

advocate appointed to each court from Great Britain, who, having a proper salary independent of the people, should be directed and empowered to prosecute in that court, not only every one who was an offender, but also every officer of the customs, who through neglect, collusion, oppression, or any other breach of his trust became such.—Here I own, was it not for the precedent already established by some of the laws of trade, I should doubt the consistency of this measure with the general principle of liberty, as established in the trials by a jury in the common law courts. If these precedents can reconcile these proceedings to the general principles of liberty, there can be no more effectual measure taken; yet such precedents should be extended with caution. The defect in most, and actual deficiency in many of the colonies, of a court of equity, does still more forcibly lead to the necessity of the measure of some remedial court of appeal and equity.—In all the King's governments so called,—the governor, or governor and council are the chancellor, or judges of the court of chancery.—But so long as I understand that the governor is, by his general instruction, upon sound principles of policy and justice, restrained from exercising the office of judge or justice in his own person, I own I always considered the  
gover-

governor, taking up the office of chancellor; as a case labouring with inexplicable difficulties. How unfit are governors in general for this high office of law; and how improper is it that governors should be judges, where perhaps the consequence of the judgment may involve government, and the administration thereof, in the contentions of parties. Indeed the fact is, that the general diffidence of the wisdom of this court thus constituted, the apprehension that reasons of government may mix in with the grounds of the judgment, has had an effect that the coming to this court is avoided as much as possible, so that it is almost in disuse, even where the establishment of it is allowed. But in the charter governments they have no chancery at all. I must again quote the opinion of a great lawyer in the colonies,—

“ there is no court of chancery in the charter governments of New England, [and I believe I may add also in Pennsylvania] “ nor

“ any court vested with power to determine

“ causes in equity, save only that the justices of the inferior court, and the justices

“ of the superior court respectively, have

“ power to give relief on mortgages, bonds,

“ and other penalties contained in deeds, in

“ all other chancery and equitable matters,

“ both the crown and the subject are without redress. This introduced a practice

“ of petitioning the legislative courts for re-  
 “ lief, and prompted those courts to inter-  
 “ pose their authority. These petitions be-  
 “ coming numerous, in order to give the  
 “ greater dispatch to such business, the le-  
 “ gislative courts transacted such business by  
 “ orders or resolves, without the solemnity  
 “ of passing acts for such purposes; and  
 “ have further extended this power by re-  
 “ solves and orders, beyond what a court of  
 “ chancery ever attempted to decree, even  
 “ to the suspending of public laws, which  
 “ orders or resolves are not sent home for  
 “ the royal assent. The tendency of these  
 “ measures is too obvious to need any ob-  
 “ servations thereon.” Nor do I see how  
 this measure of proceeding can be ventured  
 upon in the colonies, or suffered to continue  
 by the government here, if it be supposed  
 that by 1 Hen. 4. 14. “ it is accorded, and  
 “ assented, that no appeal be from hence-  
 “ forth made, or in any wise pursued in  
 “ parliament in time to come.” The gene-  
 ral apprehension of these defects occasioned,  
 that at the first planting of the colonies, the  
 King in council here in England was esta-  
 blished as a court of appeals from the pro-  
 vincial judicatories.—At the time of set-  
 tling these colonies, there was no precedent  
 of a judicatory besides those within the realm,  
 except in the cases of Guernsey and Jersey,

the remnants of the dutchy of Normandy, and not united within the realm : according to the custom of Normandy, appeals lay to the Duke in council ; and upon this ground, appeals lay from the judicatories of these islands to the King here, as Duke in council ; and upon this general precedent (without perhaps attending to the peculiar case of the appeal, lying to the Duke of Normandy, and not to the King) was an appeal from the judicatories of the colonies to the King in council settled.—But, besides the inapplicableness of such appeal to the modes of the English law ; besides, that this appeal does not actually take place in general, and is in some of the charter colonies actually excluded, except in personal actions, wherein the matter in difference exceeds 300 l. sterling ;—besides the difficulty of this appeal, and inefficiency of this redress,—the King in council never being, by the constitution, in any other case, between subject and subject, formed as such a court of appeal, it scarce ever, in the temporary and occasional sittings, looks like such a court ; but is rather accidentally or particularly, than officially attended.

These general apprehensions and reasonings, upon experience, have led many very knowing and dispassionate men in the colo-



nies, into a conviction of the necessity of some established and constitutional court of appeal and redress: and the following measure has not only been suggested, but even taken up as matter of consideration by some of the ablest lawyers in that country ;—namely, the establishment of a supreme court of appeal and equity, not confined to any one government, but circuiting through a certain district of governments ; perhaps as follows ; one to Nova Scotia and New England ; one to New York, New Jerseys, Pensylvania, and Maryland—one to Virginia, the Carolinas, and Georgia. It has been imagined, that this court should be established by a commission issued to two or more persons, learned in the law, not only of the mother country, but of the several governments in its said district : that this commission should give full powers of a court of chancery, with power also of judging on matters of law, to be brought before this court, by writ of error, from the several superior courts of the district, which this extended to. Such court would become an established court of appeals and redress, would regulate all the courts of law, so that they could not exceed their jurisdiction ; would have a general superintendency over all inferior courts ; would tend to establish some regularity, and introduce a conformity, not only amongst  
the



the courts themselves, of the different colonies, but a conformity also to the courts of the mother country, in the construction and dispensation of law : such court would, more than any other measure, not only tend to preserve the laws, and practice of law in the colonies, under a constitutional conformity to the laws of the mother country ; but would also maintain that dependency therein, which is of the essence of colony administration.

There are gentlemen on this side the water, who seeing that this measure is not without defect, and not seeing the necessity of a court of chancery at all, as there is nothing contrary to the fundamentals of law, that these law-courts already established should equitize ; (if I may so express myself) —think, that instead of establishing any new courts of chancery,—it would be very proper to abolish even those already established, extending the power which the law-courts already take in chancery bonds, &c.——by empowering them to equitize : and after that to take such measures as may best establish a fixt and constitutional court of appeals here in England.

Sensible of the danger of innovations, and abhorrent from tampering in experiments of politics, I mention the following rather as a matter of speculation, than to recommend

the trial : yet I cannot but observe, that while the constitutions of the governments of the colonies take so exactly the model of the British constitution, it always struck me as a strange deviation in this one particular, that the governor's council of state, although a distinct, and I had almost said, an incompatible board,—with the council, one branch of the legislature, is yet always constituted of the same persons, in general nominated and liable to be suspended by the governor.—

One may see many advantages, besides the general conformity to the government of the mother country, in having these boards distinct in their persons, as well as their office. If the council of state remaining under the same constitution as at present, was composed of men of the best experience, fortune, and interest in the colony, taken in common from the legislative council, the house of representatives, or the courts, while the members of the legislative council, independent of the governor for their existence, had all and only those powers which are necessary to a branch of the legislature, much weight would be added to administration in the confidence and extent of interest that it would thereby obtain ; and to the legislature a more true and political distribution of power, which, instead of the false and artificial lead, now held up by expedients, would  
 throw

throw the real and constitutional balance of power into the hands of government.

There is a matter which at first or last will be found absolutely necessary to be done, and I would wish to recommend it at this time; that when the Lords of council shall take under consideration the general state of the administration of the King's delegated powers in America, they would order a general revision of the several powers granted by the several boards here in England, to the officers of different kinds, under their respective departments: If upon such revision they shall find that these powers are given and granted without any general concert, or any reference to that union which they ought to have, as parts of the one power centering in, and derived from the crown; if they shall find that the several officers and offices in America, though all branches of the one united power of the crown, are by mischievous rivalry of departments, perpetually crossing and obstructing each other; if they shall find them alternately labouring to depress and to depreciate that part of the crown's power, which does not fall within their own delegation; if they shall find that while the several powers of the crown are thus by parts impeached, and rendered contemptible in the eyes of the people, the whole cannot long

remain with that authority which should be able to exert an equal and universal administration throughout the colonies : if this disconcerted delegation of powers, accompanied with this distraction in the exercise of them, should be found to lead to such consequence, it will be found, as I have repeatedly said elsewhere, “ That it is a dangerous thing to have trusted so much of civil power out of the hands of the crown ; and to have done so little to maintain those to whom it is entrusted.” If this should be found to be the state of things, and there should arise a serious intention of putting the administration of the colonies on a practicable footing, their Lordships will advise, that these powers of the crown, delegated through the powers of the several boards and offices in England, shall be so granted as not to interfere with each other ; so granted as not to serve the power or purposes of individuals, either board offices, or officers ; but in such manner as shall unite, strengthen, and maintain the powers of the crown, in the true and constitutional establishment of them ; and in such manner as shall render the administration of them in the colonies, uniform, equable, and universal, the common blessing and protection of the whole. This ought to be done, and it can be done no where, but at the council board—sitting

as the real, and true, and only efficient board of trade and plantations.

As government, by those ministers whose department it is to superintend and administer the public revenue, hath taken the colony revenue under consideration; and as the point of right, whether the supreme legislature of Great Britain (passing by the subordinate legislatures of the colonies, wherein alone the Colonists say they are represented) can tax the colonies, is now brought forward as a matter of dispute; I do, as writing on this subject, think it my duty not to conceal what has always been my idea of the matter. I do suppose that it will not bear a doubt, but that the supreme legislature of Great Britain is the true and perfect representative of Great Britain, and all its dependencies: and as it is not in the power of the House of Lords or Commons to exempt any community from the jurisdiction of the King, as supreme magistrate, so that it is not, nor ever was, or could be in the power of the crown, to exempt any persons or communities within the dominions of Great Britain, from being subject and liable to be taxed by parliament. If the settlers of the colonies were at their migration, prior to the grants of charter and commissioned-constitutions, liable to be taxed by parliament, no charters or powers  
of



of any kind granted by the crown could exempt them. When the doubt arises on expediency, whether parliament should exercise this right, where the colonies have legislatures that do respectively in each colony lay taxes and raise revenues for the use of the crown in that colony, I think it cannot but be observed, that as there are in each respective colony services which regard the support of government, and the special exigences of the state and community of that colony, so there are general services which regard the support of the crown, the rights and dominions of Great Britain in general:—That as lands, tenements, and other improved property within the colony, considered as the private especial property of that community, should be left to the legislatures of those colonies unincumbered by parliament, should, as the proper object of taxes within the colony, be the special funds of those colonies; so revenues by imposts, excise, or a stamp duty, become the proper fund whereon the parliament of Great Britain may, with the utmost delicacy and regard to the colonies power of taxing themselves, raise those taxes which are raised for the general service of the crown; because these kind of taxes are (if I may be permitted the expression) coincident with those regulations which the laws of the realm prescribe to trade in general; to manufactures—  
and

and to every legal act and deed;—because they are duties which arise from the general rights and jurisdiction of the realm, rather than from the particular and special concerns of any one colony.—Whenever therefore this point, now a question, shall be decided, and government shall find it expedient to extend to America, those duties under which trade, manufactures, and business, is carried on in Great Britain, the proper taxes, so as not to interfere with the special internal property and rights of the colonies, will arise from an impost, excise, and stamp duty.—The first will arise from customs paid by the exterior trade of the colonies, regulated as hereafter to be mentioned. *Secondly*, As the objects of manufactures, the product of the colonies, and all articles consumed by the manufacturers, ought not to be exempt from those duties which are paid on the like objects and articles by the manufacturers in England;—*As the manufacturers in America ought in this case to be under the same predicament as they are in England*, the extension of the excise laws so far as this rule of equality goes, can never be thought any matter of injustice by the Colonists: But in these laws one caution must be carefully observed, that no article bought by the Colonists in England, wherein the excise duty already paid is part of the price which they give for it, ought to be  
 liable

liable to a second excise in the colonies. *Lastly*, As all matters of business between man and man, transacted either in proceedings or by the directions of law, all matters of bargain or sale done and performed, are done under the regulations and sanction of the laws of the realm, it can never be objected to, as to a point of injustice, that these matters and things in America should be subject, *mutatis mutandis*, to the same duty as the like matters and things are in England. However one doubt will here arise that ought to be well attended to, namely, how far these colonies, who for the necessity of government and the emergencies of service, have already by their proper powers laid these duties on the people, and granted the revenue arising therefrom to the crown, by acts which have received the consent of the crown; how far these colonies may or may not be supposed to have precluded any act of administration here on these heads.—I mention this matter as a point of doubt, which would unavoidably arise; but do not pretend to determine on it.

The rates at which the impost duty should be laid, ought to be estimated by the consideration of the restraints and burthens already lying on the colony trade, by the act of navigation.

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The rates of any excise, if ever it should be found proper to extend those laws to America, should be estimated by an average made between the price of labour, the price of provisions, and expence of living in those countries, compared with the same articles here in England, both which may easily be known.

The rates of the stamp duty ought to be much lower than those laid here in England ; because the same kind of transactions, acts, and deeds, passed and done in America, as those here in England, are done for concerns of much less value ; but if that duty be laid *ad valorem*, it must regulate itself to the strictest point of equity.

The Colonists say with great propriety, that before the mother country determines on the measure of taxing them, it ought to be well informed of the abilities of the several colonies, as to the species and extent of tax which each is respectively able to bear ; that none but their representatives can be *duly* informed of that, and therefore by the very spirit of the British constitution, it hath been always hitherto left to the colonies “ to judge by their representatives of the ways and means by which internal taxes should be raised

raised within the respective governments, and of the ability of the inhabitants to pay them."

To which it may be answered,—that so long as it is maintained by the government of Great Britain, and not disallowed by the colonies, that the mother country has a right not only to judge of, but to regulate by its laws, the trade, produce, and manufactures of its colonies; the mother country ought to be supposed to have the means of being *duly* informed of the state of these, and therefore to be the proper, and indeed the only proper judge of the whole of this subject, as a matter of police as well as revenue; in which perhaps the only true grounds and right of laying duties by impost and excise may lie.

It is said that the abilities of the colonies are not known, but it is a shame that it should be so said; that ignorance should be thus imputed to those who ought to be fully informed of this subject; or the art of concealing their circumstances, imputed to those who can have no justifiable reason for concealing them from government:—But this assertion arises from a mistake. Government here in Britain does, or at least may at any time know,

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1. The number of rateable polls.
2. The number of acres in each province or colony, both cultivated and lying in waste.
3. The numbers and quantity of every other article of rateable property, according to the method used by the provinces themselves, in rating estates real and personal.
4. Government may know, and ought always officially to know it, what the annual amount of the several province taxes are, and by what rates they are raised, and by what estimates these rates are laid.

From whence, by comparing this estimation with the value of each article, they may always collect nearly the real value of the property of such province or colony; all which compared with the prices of labour, provisions, and European goods imported, on one hand, and with the value of their exports, on the other, will as fully and precisely, as all the knowledge and justice of their own representatives could do, mark their abilities to bear, and the proportion which they should bear of taxes with the  
mother

mother country. When this proportion shall be once settled for the several parts, by the supreme legislature which can alone extend to the whole; so long as the arguments and reasoning of the Colonists “ that they should be permitted to judge by their representatives of the ways and means of levying these *internal taxes* by rates on polls and estates real and personal,” go only to the matter of expediency and good policy; whilst this privilege is not claimed as an exclusive right, and extends only to these *internal funds*, I own that I cannot but think that it would be expedient and of good policy, to continue to them these privileges exercised on these objects, as their proper funds.

As it is my opinion that the polls and estates real and personal are, as the special internal private property of the province, the proper object of the province taxes, and that these ought to be left as the special funds of the province unincumbered by parliament; my endeavouring here to give some idea of the extent of these funds, and what they would produce annually, at one shilling in the pound on the produce, cannot be misconstrued to be a pointing out of these, as taxes proper to be laid on the colonies by Great Britain: Yet on the contrary, it may show what little reason the Colonists have to complain of those

those moderate duties and imposts, which the mother country expects them to bear in aid to her, whilst government leaves to them untouched these internal funds, so fully adequate to all the internal services of each province.

The following estimates of the provinces, Massachusetts-Bay to the northward, of South-Carolina to the southward, and of New Jersey in the center, are founded in the tax-lists of each province; which tax-lists, being of ten Years standing, must, in encreasing countries as the colonies are, fall short of the numbers and quantity which would be found on any tax-list faithfully made out at this time. The estimates which I have made thereon are in general at such an under-valuation, that I should think no man of candour in the provinces will object to them; although they be, in some articles, higher than the valuation which the legislatures directed so long ago to be made, as the fund of the taxes that they order to be levied on them. This valuation of the estates, real and personal, gives the gross amount of the principal of the rateable property in the province. I think I may venture to affirm, that no man, who would be thought to understand the estimation of things, will object that I over-rate the produce of this property,

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when I rate it at fix *per cent.* only of this moderate valuation ; when he considers that money, in none of those provinces, bears less than fix *per cent.* interest ; and that under loans of money, at five *per cent.* most of the best improvements of the country have been made.

The valuation of the provinces, New-York and Pensylvania, lying on each side of New-Jersey, are calculated in a different manner, by taking a medium between the supposed real value and the very lowest rate of valuation. Without troubling the reader, or encumbering the printer with the detail of these tax-lists, and the calculations made thereon, I will insert only the result of them, as follows.

The provinces under-mentioned could annually raise, by one shilling in the pound on the produce of the rateable property, estates real and personal in each province :

|                             | £.    | s. | d. |
|-----------------------------|-------|----|----|
| Province Massachusetts-Bay, | 13172 | 7  | 11 |
| New-York, - -               | 8000  | 0  | 0  |
| New-Jersey, - -             | 5289  | 17 | 0  |
| Pensylvania, - -            | 15761 | 10 | 0  |
| South-Carolina, -           | 6971  | 1  | 11 |

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Sterling, £. 49395 16 10

Suppose now the rest of the colonies to be no more than able to double this sum :

|  |   |                   |
|--|---|-------------------|
| <p>The sum-total that the colonies will be able to raise, according to their old tax-lists, and their own mode of valuation and of rating the produce of estates, real and personal, will be, at one shilling in the pound on the produce, <i>per annum</i>, - - - - -</p> | } | <p>98791 13 8</p> |
|--|---|-------------------|

In justice to the rest of the provinces, particularized above, I ought to observe that, by the equallest judgment which I can form, I think that the province of South-Carolina is the most under-rated.

I should also point out to the American reader, that, as the calculations and lists above referred to, are taken from the private collections of the writer of these papers, without any official communication of such papers as ministry may be possessed of, I desire him to give no other credit to them, than such as, by referring to his own knowledge of the state of things in the colonies, he finds to be just and near the truth. I should, on the other hand, inform the English reader, that these were collected on the spot, and communicated by persons leading,



and thoroughly conversant in the business of their respective provinces.

Another remark is necessary, That, except what relates to Pensylvania, these collections were made nine years ago ; so that, wherever any difference may arise, from the different proportion in which these provinces have encreased, that ought to be carried to account ; at the same time, that a certain addition may be made to the whole from the certain encrease of all of them.

If this moderate tax, raised by the above moderate valuation, be compared with the internal annual charge of government in the respective provinces, that charge will be found much below the supplies of this fund. The whole charge of the ordinary expence of government in the province Massachusett's-Bay, which does, by much, more to the support of government, and other public services than any other province, is, in time of peace, sterling 12937 *l.* 10 *s.* whereas that of New-York is not more than about, sterling, 4000 *l.* annually.

When these points shall be settled, there cannot be a doubt but that the same zealous attention, which all parties see and confess to be applied in the administration of the British department to the public revenue, will be ap-  
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plied

plied to the establishing and reforming that of America.

A proper knowledge of, and real attention to, the Crown's quit-rents in America, by revising the *original defects*, by remedying the almost insurmountable difficulties that the due collection of them is attended with, may render that branch a real and effective revenue, which at the same time will be found to be no inconsiderable one.

By proper regulations for securing the Crown's rights in waifs and wrecks, in fines and forfeitures, and by proper appropriations of the same, that branch of revenue may be made effective: But, whenever it is taken up in earnest, whenever it shall be resolved upon to give a real official regard to the revenue in America, the office of *Auditor General of the plantations* must cease to be a mere sinecure benefice, and be really and effectively established with such powers as will carry the duty of it into execution, yet under such cautions and restrictions as shall secure the benefit of its service to the use of the crown.

Here it will be necessary to remark, that, while administration is taking measures to secure and establish those duties which the

subject ought to pay to government, it much behoves the wisdom of that administration to have care that the subject hath some species of money out of which to pay.

The British American colonies have not, within themselves, the means of making money or coin. They cannot acquire it from Great Britain, the balance of trade being against them. The returns of those branches of commerce, in which they are permitted to trade to any other part of Europe, are but barely sufficient to pay this balance.— By the present act of navigation, they are prohibited from trading with the colonies of any other nations, so that there remains nothing but a small branch of African trade, and the scrambling profits of an undescribed traffic, to supply them with silver. However, the fact is, and matters have been so managed, that the general currency of the colonies used to be in Spanish and Portuguese coin. This supplied the internal circulation of their home business, and always finally came to England in payments for what the colonists exported from thence. If the act of navigation should be carried into such rigorous execution as to cut off this supply of a silver currency to the colonies, the thoughts of administration should be turned to the devising some means of supplying the colonies

colonies with money of some sort or other : and in this view, it may not be improper to take up here the consideration of some general principles, on which the business of money and a currency depends.

SILVER, *by the general consent of mankind, has become a DEPOSITE, which is, THE COMMON MEASURE of commerce.* This is a general effect of some general cause. The experience of its degree of scarceness compared with its common introduction amidst men, together with the facility of its being known by its visible and palpable properties, hath given this effect : Its degree of scarceness hath given it a value proportioned to the making it a DEPOSITE, and the certain quantity in which this is mixed with the possessions and transactions of man, together with the facility of its being known, makes it a COMMON MEASURE amongst those things. There are perhaps other things which might be better applied to commerce as a common measure, and there are perhaps other things which might better answer as a deposit; but there is nothing except silver known and acknowledged by the general experience of mankind, which is a deposit and common measure of commerce. Paper, leather, or parchment, may, by the sanction of government, become a common measure to an extent beyond what silver could reach ; yet all

the sanction and power of government never will make it an adequate deposit. Diamonds, pearls, or other jewels, may in many cases be considered as a more apt and suitable deposit, and may be applied as such, to an extent to which silver will not reach; yet their scarcity tends to throw them into a monopoly; they cannot be subdivided, nor amassed into one concrete, and the knowledge of them is more calculated for a mystery or trade, than for the forensic uses of man in common, and they will never therefore become a common measure.

This truth established and rightly understood, it will be seen that that state of trade in the colonies is the best, and that administration of the colonies the wisest, which tends to introduce this only true and real currency amongst them. And in this view I must wish to see the Spanish silver flowing into our colonies, with an ample and uninterrupted stream, as I know that that stream, after it hath watered and supplied the regions which it passeth through, must, like every other stream, pay its tribute to its mother ocean: As this silver, to speak without a metaphor, after it hath passed through the various uses of it in the colonies, doth always come to, and center finally in Great Britain.

The



The proportion of this measure, by the general application of it to several different commodities, in different places and circumstances, forms *its own scale*. This scale arises from the effect of natural operations, and not from *artificial imposition*: If therefore silver was never used but by the merchant, as the general measure of his commerce and exchange, coin would be (as it is in such case) of no use; it would be considered as bullion only. Although bullion is thus sufficient for the measure of general commerce, yet for the daily uses of the market something more is wanted in the detail; something is wanted to mark to common judgment its proportion, and to give the scale: Government therefore, here interposes, and by forming it into COIN gives the scale, and makes it become to forensic use AN INSTRUMENT in detail, as well as it is in bullion a MEASURE in general.

This *artificial marking* of this scale on a *natural measure*, is neither more nor less than marking on any other rule or measure, the graduate proportions of it: And this artificial marking of the scale, or graduating the measure is of no use but in detail, and extends not beyond the market;—for exchange restores it again in commerce. No artificial standard therefore can be imposed.

Having

Having this idea of money and coin, I could never comprehend to what general uses, or to what purposes of government, the proclamation which Queen Ann issued, and which was confirmed by statute in the sixth year of her reign, could be supposed to extend, while it endeavoured to rate the foreign coins current in the colonies by an artificial standard. It would seem to me just as wise, and answering to just as good purpose, if government should now issue a proclamation, directing, that for the future, all black horses in the colonies should be called white, and all brindled cows called red. The making even a law to alter the names of things, will never alter the nature of those things; and will never have any other effect, than that of introducing confusion, and of giving an opportunity to bad men of profiting by that confusion.

The safest and wisest measure which government can take, is not to discourage or obstruct that channel through which silver flows into the colonies,—nor to interfere with that value which it acquires there;—but only so to regulate the colony trade, that that silver shall finally come to, and center in Great Britain, whither it will most certainly come in its true value;—but if through any fatality in things or measures, a medium of trade,  
a cur-

a currency of money, should grow defective in the colonies, the wisdom of government will then interpose, either to remedy the cause which occasions such defect, or to contrive the means of supplying the deficiency. The remedy lies in a certain address in carrying into execution the act of navigation ;—but if that remedy is neglected, the next recourse must lie in some means of maintaining a currency specially appropriated to the colonies, and must be partly such as will keep a certain quantity of silver coin in circulation there,—and partly such as shall establish a *paper currency*, holding a value nearly equal to silver.

On the first view of these resources, it will be matter of serious consideration, whether government should establish a mint and coinage specially appropriated for the use of the colonies ; and on what basis this should be established. If it be necessary that silver, which in bullion is a common measure of general commerce, should, that it may be instrumental also to the common uses of the market, be formed into coin, it should be so formed, that while it was the duty of the public to form this coin, it may not be the interest of the individual to melt it down again into bullion.

If

If a certain quantity of coin is necessary for the forensic uses of the colonies, it should be so formed as *in no ordinary course* of business to become the interest of the merchant to export it from thence.

This coin should be graduated by alloy, somewhat below the real scale, so as to bear a value in tale, somewhat better than the silver it contains would fetch after the expence of melting down the coin into bullion,—somewhat better *as an instrument*, in common forensic use, than the merchant *in ordinary cases* could make of it, in applying it *as a measure* by exporting it.

I have here inserted the caution against ordinary cases only, as I am not unaware that the lowering the intrinsic worth of the coin for America, will have in the end no other effect, than to raise the price of the European goods carried thither, while the coin will be exported to Great Britain the same as if it were pure silver.

If such a necessity of an artificial currency should ever exist in the colonies, and if such a coinage was established, the Colonists would, for the purposes of their forensic business, purchase *this instrument* either in gold or  
silver

silver, in the same manner as they do now purchase copper coin for the same purposes.

There are two ideas of *a paper currency*. The one adopts a measure for establishing a bank in the colonies, which is quite a new and untried measure; the other turns the view to the regulating the present paper money currency, which the colonies have had experience of in all its deviations, and to the establishing the same on a sure and sufficient basis.

I have seen this plan for *a provincial bank*, and think it justice to the very knowing person who formed it, to say, that it must be because I do not understand it, that many objections arise in my mind to it. Whenever he shall think fit to produce it, it will come forth clear of all objections, with that force of conviction with which truth always flows from a mind in full and perfect possession of it.

In the mean while, I will recommend to the consideration of those who take a lead in business, a measure devised and administered by an American assembly.—And I will venture to say, that there never was a wiser or a better measure, never one better calculated to serve the uses of an encreasing country,  
that



that there never was a measure more steadily pursued, or more faithfully executed, for forty years together, than the loan-office in Pennsylvania, formed and administered by the Assembly of that province.

An encreasing country of settlers and traders must alway have the balance of trade against them, for this very reason, because they are encreasing and improving, because they must be continually wanting further supplies which their present circumstances will neither furnish nor pay for:—And for this very reason also, they must alway labour under a decreasing silver currency, though their circumstances require an encreasing one. In the common cursory view of things, our politicians, both theorists and practitioners, are apt to think, that a country which has the balance of trade against it, and is continually drained of its silver currency, must be in a declining state; but here we may see that the progressive improvements of a commercial country of settlers, must necessarily have the balance of trade against them, and a decreasing silver currency; that their continual want of money and other materials to carry on their trade and business must engage them in debt—But that those very things applied to their improvements, will in return not only pay those debts, but  
create

create also a surplus to be still carried forward to further and further improvements. In a country under such circumstances, money lent upon interest to settlers, creates money. Paper money thus lent upon interest will create gold and silver in principal, *while the interest becomes a revenue that pays the charges of government.* This currency is the true Pactolian stream which converts all into gold that is washed by it. It is on this principle that the wisdom and virtue of the assembly of Pennsylvania established, under the sanction of government, an office for the emission of paper money by loan.

Some matters which were intended to have been inserted here, are suspended for the present, for reasons which I hope may lead to more public benefit, than the making them public in this work could do. —I proceed therefore to the consideration of the ordinary mode of making paper-money, by the legislatures of the colonies issuing government-notes, payable at a certain period by a tax. It may be useful to give some description of this, and to point out such regulations as will become necessary in this case.

This paper-money consists of promissory notes, issued by the authority of the legislature of each province, deriving its value from  
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being payable at a certain period, by monies arising from a tax proportioned to that payment at the time fixed. These notes pass as lawful money, and have been hitherto a legal tender in each respective province where they are issued.

As any limitation of the USES of these notes as a currency, must proportionably decrease its value ; as any insecurity, insufficiency, or uncertainty in the FUND, which is to pay off these notes, must decrease their value ; as any QUANTITY emitted more than the necessities of such province calls for as a medium, must also decrease its value ; it is a direct and palpable injustice, that that medium or currency which has depreciated by any of these means from its *real value*, should continue *a legal tender at its nominal value*.

The outrageous abuses practised by some of those legislatures who have dealt in the manufacture of this depreciating currency, and the great injury which the merchant and fair dealer have suffered by this fraudulent medium, occasioned the interposition of parliament to become necessary :—Parliament very properly interposed, by applying the only adequate and efficient remedy, namely, by prohibiting these colony legislatures from being able to make the paper cur-

currency *a legal tender*. And government has lately for the same prudent reasons made this prohibition general to the whole of the colonies. For, *when this paper-money cannot be forced in payment as a legal tender*, this very circumstance will oblige that legislature which creates it, to form it of such internal right constitution, as shall force its own way by its own intrinsic worth on a level nearly equal to silver. The legislature must so frame and regulate it as to give it *a real value*.

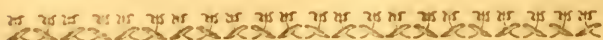
These regulations all turn upon *the sufficiency and certainty of the FUND, the extent of the USES*, and the proportioning the QUANTITY to the actual and real necessities which require such a medium.

*The FUND* should at least be equal to the payment of the principal *in a limited time*; and that time should be certainly so fixed, as that the legislature itself could not alter it. Where the paper currency is treasurer's notes given for specie actually lent to government, the fund whereon it is borrowed should be also capable of paying, *ad interim*, a certain interest, as is the case of treasurer's notes in the province Massachusetts-Bay.

This medium ought to be applicable to all the equitable as well as legal USES of silver  
 I money

money within the colony or province, except that of being a legal tender.

*The* QUANTITY ought always to be proportioned to the necessity of the medium wanted; which (the *fund and uses* being fairly and absolutely fixed) may always be judged of by the rise or fall of the *value* in its general currency or exchange: for where the quantity issued is more than necessity requires, the value will depreciate: and where the fund is good, and all proper uses of the medium secured, so long as no more paper is issued than necessity does require, it will always hold a value near to, though somewhat less than silver. On this subject I here refer the reader to the following very judicious tract, written and given to me, several years ago, by *Tench Francis*, Esq; late attorney-general of the province of Pennsylvania, conversant in these matters, both as a lawyer and a merchant. I print and publish it by leave of a near relation, and subjoin it as containing the most exact and decisive sentiments on this subject that I have any where met with. I entitle it, CONSIDERATIONS ON A PAPER-CURRENCY.



ALL value is given to things for their fitness or power to answer or procure the necessary



cessary conveniencies or pleasures of human life.

This value may be considered as absolute or relative. Absolute value terminates in our esteem of any thing, without referring to any other ; relative is that which it has compared with another. The latter only I shall have occasion to treat of.

Men have power to discover qualities in a thing, which shall give it value. They can by laws, customs, or fashions, greatly increase that value ; yet, to know or fix its worth or price, compared with other things *à priori*, has always been found beyond their reach and capacity.

This is owing to an inability to foresee, estimate, and govern exactly all the points and circumstances, on which the value of things turns, which are such as are in, or follow the nature and order of things in general, and then may be foreseen and judged of with some certainty ; or which consist of the passions, prejudices, and misapprehensions of mankind, whose number and influences we cannot rate or calculate.

From the *natural* state and order of things, I think it may be affirmed, that the worth

or price of any thing will always be, as the quantity and uses amongst mankind; as the uses directly, and as the quantity reciprocally or inversely. Use is the sole cause of value, and value the necessary effect of use. Abating these distinctions of cause and effect, useless and worthless, are synonymous terms. Every man must agree, that if you add to a cause, you must increase the effect; subtract from it, and the contrary effect must follow. Let the quantity of any thing be as 20, and the uses as 20, and let it have a value; let the uses be increased to 30, without enlarging the quantity; it is plain, the equal proportion that every man can enjoy will be as 20 divided by 30,  $\frac{2}{3}$ ds only. But this being less by  $\frac{1}{3}$  than each man requires, the demand for it, and consequently the value must rise. Subtract 10 from the uses when 20, and then under an equal distribution, each shall have double the value he wants, which must lessen the demand, and the value dependent upon it.

Governing the uses is one of the rational powers, that men have over the value of things.

Experience teaches the meanest understanding, that price depends on quantity, and that they are to each other inversely, or the  
more

more of one the less the other. Water is as necessary as any thing, and a diamond perhaps as little ; yet the superfluous plenty of one has rendered it of no worth in most places, and the scarcity of the other has carried it to an extravagant price.

Limiting the quantity is another rational power men have over the value of things ; and I do not know a third.

From hence it appears, that increasing the uses, and lessening the quantity, and lessening the uses, and increasing the quantity, must always have the same influence upon the rates and prices of things. Therefore, whenever I shew the effect of one, for brevity's sake, let it be understood, that I suppose the same consequence will attend the other respectively.

Although I affirm, that variation in quantity or use shall cause a change in the price of a thing, yet I do not say, that this change shall be in proportion equal to the variation in the quantity or use ; for I think the contrary. To instance in quantity, let it be in any thing as 30, and let the use be as 30, and it shall then have a mean value. The use unchanged, let the quantity be at one time as 20, at another 40. Whoever con-

siders the prevalence of men's appetites for a scarce commodity, under the dreads and apprehensions of wanting it, with their different abilities to procure it, on one hand, and their great contempt of useless excess on the other, must agree it is more than probable, that the difference between the means and the extremes shall not be the same in the prices, as in the quantities. Merchants, by experience, have found the truth of what I advance. I think they have observed, that lessening a commodity one third from the mean quantity, *ceteris paribus*, nearly doubles the value; adding a third, subtracts one half from it; and that by further increasing or diminishing the quantity, these disproportions between the quantity and prices vastly increase.

It is extremely difficult, if not impossible, to investigate these proportions mathematically; but events springing from use and experience have equal certainty in them, and to all practical purposes are as much to be relied and depended upon.

It is further worth observation, that whatever fluctuates much in quantity, and consequently in worth, will sink beneath its mean value.

Suppose

Suppose the quantity of any thing produced in every 50 years be exactly the same: let the annual product be as *one* answerable to the necessities of mankind, then the value in each year shall be as one, and the whole equal to 50. But if the quantity of the annual product fluctuates, there will be annual fluctuations in the value; but as the proportions of the decrease of value, from experience above stated, will be greater than the proportions of the increase of value, this fluctuation will cause a deficiency in the mean value, which deficiency will always be in proportion to the greatness and quickness of the changes. This, I presume, is occasioned by the desire of mankind in general to rest on certainty, rather than rely on what is fluctuating and inconstant, though they should expect gain equal to the risque, and by the low circumstances of the majority of men, whose fortunes, in all prudence, direct to the first, rather than the latter. The case of insurances is an evident proof of this remark. If the insurers gain, which I think must be admitted, then they receive a premium beyond the value of the risque, and this gain the insured pay for *certainty* against *contingent losses*.

These few rules of estimating the value of things, well applied, will, I presume,



shew when it is convenient to introduce paper-money into a country, and when it will prove hurtful; what are its advantages and inconveniencies, general and particular, when introduced; of what great importance it is to prevent an excess in quantity, and to extend the uses; and nearly what its value will be in any given state.

If a nation has a quantity of money equal to its commerce, the lands, commodities, and labour of the people shall bear a middle price. This state is the best, and tends most to enrich the people, and make their happiness lasting. If they should mint paper to pass for money, the increase of quantity in the former will lessen the value of the latter, will raise the price of lands and rents, and make the labour of such a people, and the commodities, be *rated* higher than in other places. Men's fortunes will rise in *nominal, not real value*; from whence idleness, expence and poverty shall follow. Under these circumstances, their *real money*, instead of their commodities, shall be exported from them. Here the paper will be their bane and destruction. But if their commerce, or uses of money, exceed the quantity of it, their lands, labour, and commodities shall sink beneath their worth in other countries. Few purchasers of lands will be found

found in regard to the superior profit that must attend the use of money in trade: the *wealthy merchant shall be at the head of affairs*, with few competitions; he shall be able to grind down the farmer in the sale of his commodities, and, when those fail to support him, in the purchase of his lands. The artisan's labour shall be depreciated by the merchant who exports it, or the needy farmer that uses it. The wealthy only shall accumulate riches, the commonwealth shall decline, and in time farmers and artisans must desert the place for another, where their labour shall be better rewarded. Here the use of paper-money will shake off the fetters and clogs of the poor. Merchants will multiply; they will raise the price of labour, and of the fruits of the earth, and thereby the value of lands. An equal distribution of gain and profit shall succeed, and destroy the partial accumulations of wealth.

I think these marks, taken from the value of lands, labour, and commodities, compared with their worth in other countries, will be found the only infallible rules to judge of an equality, excess, or defect of money in any place wheresoever; and consequently will, at all times, unerringly shew the necessity of increasing coins, or the contrary. Had a neighbouring province well understood  
and

and weighed these points, they had not created a paper credit far exceeding all their uses for money, when they were able to supply themselves with gold equal to their trade, nor at the same time have dammed up so many uses for it, which now cover them with clouds and confusion, that no man can see his way through. The best method they can use is to sink it as fast as possible, and not let their fund lie in Britain at an interest less than 4 *per cent.* when it is worth 6 in their own country, and their paper passes 50 *per cent.* less than the nominal value. But to return : when it is found necessary to add *paper-money* to the coin of any country, to support its value ought to be the main and principal view. This will turn upon the *FUND*, the *USES*, and the *QUANTITY*.

All value arising from the use, I beg leave to call *extrinsic*.

Having shewn that paper-money acquires its extrinsic value from the uses, which uses apparently may be encreased or diminished ; I think it would be needless and mispending the reader's time, to demonstrate, that this value must be in direct proportion to the uses ; for it would really amount to no more than the proof of an axiom universally acknowledged, that the effect shall always be adequate

adequate to the cause. Therefore, in all future arguments, I shall take it for granted.

The fund ought to be as satisfactory to mankind as human wisdom can devise and furnish.

The community should become security to answer all deficiencies in the FUND ; this is not only the highest justice, but the best policy. It is just, because it is a creature of their own, calculated for their private utility and advantage, and is in the management of the country by their representatives and officers. But when they receive an interest from the money, the equity of it is unanswerable: for it seems wholly inconsistent with justice, that one should receive the interest, and another run the risque of the principal. Policy requires it, because the community will certainly receive more profit from its credit under their support, than, with due caution, they can probably lose by accidents in the fund.

Our next consideration, with respect to the value, turns on *what* the fund is to pay, and *when*. These are arbitrary, being within the power of those by whose authority the money is emitted. But for the present purpose: let us suppose it is to pay silver money,  
according

according to the late Queen's proclamation, to the value of 1000 *l.* for so much of the paper, as, according to the *nominal value*, amounts to that sum at the end of 15 years. In this state the 1000 *l.* paper, *with regard to the fund alone*, at the time of its emission, is worth no more proclamation money than what will produce 1000 *l.* of that money at the end of the term, at compound interest, under as good security.

For example, take a 1000 *l.* paper, and let it represent that the possessor shall receive 1000 *l.* proclamation money for it at the end of 15 years, and let the use of money be worth 6 *per cent. per annum*; rebate 6 *per cent. per annum* with compound interest for 15 years, and you have the value of the 1000 *l.* proclamation money in hand, which appears to be but 417 *l.* 5 *s.* 3½; more it cannot be worth, because 417 *l.* 5 *s.* 3½, with 6 *per cent. per annum* compound interest for 15 years added, will amount to 1000 *l.*

On this state it appears, that the longer the term, the less the value, with regard to the fund alone. From whence it follows, that by increasing the term, this value may be reduced to a degree beneath estimation. But whatever the value thus proved be, I call it *intrinsic*.

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The FUND established, I proceed to the USES as they next require our attention in regard to the value of the paper-money.

If value, in respect to the uses of things, shall always be in direct proportion to those uses, (which I presume I have heretofore proved in general, and shall hereafter shew is true in relation to paper-money) and we design to raise the power, it follows clearly, that to bring this to pass, we ought to give it all the uses of money, or coined gold and silver in other countries. From these uses alone it must derive all the worth it shall bear beyond what I called the *intrinsick* value. For the purpose *take the case stated on the Fund only*, that the possessor of 1000 *l.* paper shall receive 1000 *l.* proclamation money in exchange for it, at the end of 15 years. On this account the paper appeared to be worth but 417 *l.* 15 *s.* 3  $\frac{1}{2}$ . But suppose this 1000 *l.* paper may be immediately exchanged for 800 *l.* proclamation money, which is 382 *l.* 14 *s.* 8  $\frac{1}{2}$  more than the *intrinsick* worth, how has it acquired this exceeding price or value? I think plainly from the uses. To prove the truth of this, suppose all the uses as money taken away; unquestionably then the worth of 1000 *l.* paper in proclamation money will be reduced to what I call the *intrinsick* value; because, depending upon the

the fund alone, it will be exactly in the state of a fund to be paid at a future day ; for in neither case can the creditor use it in the mean time. But if the creditor can by any contrivance use the sum in that time, as he may the paper when it passes for money, that use must be something worth. And when experience shews, that under this use the value advances from 417 *l.* 15*s.* 3  $\frac{1}{2}$  to 800 *l.* I apprehend it is evident to a demonstration, that the difference is derived from the use. To deny it must be as irrational and absurd, as if, upon adding and extracting an ingredient to and from a composition, we perceived properties in the composition appear and disappear, and yet were to deny that such ingredient was the cause of those properties. This leads me to attempt the solution of a question I have known frequently made. If we in Pensylvania, upon a sufficient fund answerable in silver, at a future day, mint a quantity of paper equal to the uses of the people for money, and they willingly and universally accept of the paper in all payments, why should it not, at all times, have *value equal to the nominal value*, or to the sum chargeable on the fund at the day to come. This reason, urged by many, to support the paper to this degree, is drawn from the nature of money in general. Money, say they, is but a ticket or counter, which represents to the mind of the possessor

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a quantity or degree of power. No man, on the receipt of it, ever examines how, or from whence it acquired that power, but in order to discover its reality and duration. For instance, when an English crown is received, does the acceptor regard any properties in the metal, or the figures of it, but those which are to convince him that it is what it appears to be? a crown. It must be confessed, he does not. If so, then why may not a piece of paper, under distinguishing characters and impressions, affixed by law and common consent, have the power of an English crown annexed to it? It is to pass in the same manner as a crown does, and in the end will as certainly be a crown as the real one.

Therefore they conclude, that the paper may, and ought at all times, to be esteemed equal to the quantity of silver the fund is to yield for it at the end of the term.

I confess I think this reasoning fair, and the conclusion just and satisfactory, if we do not use silver in our *commerce, foreign or domestic*: otherwise not. The fact is, we do use silver *in our foreign commerce*. I presume it will be easily admitted, as the paper represents the silver in the fund, and from thence obtains its credit, that it shall always be

be at least of equal use with, or be as readily received as paper. Then if silver in hand has one power, *one use more* than the paper, to wit, that of procuring foreign commodities, it is impossible we can esteem them equally. For that would be to controul the different virtues and influences of things over the mind of man, which necessarily depending upon the things themselves, no laws or consent can, by any means, vary or direct. Wherefore, in the case stated, it seems to me certain and undeniable, that the paper must have less worth than the silver.

Having said, that the uses of the paper should be as many as possible, it may be proper for me to speak of some of those uses, the equity and advantage of which have been very much controverted. But here let it be understood, that I proceed upon the case last stated, that the quantity of paper is to be equal to all the uses of money *within* the country. For that state, and a partial supply of paper credit, differing in principles, requiring different reasoning, and infer quite opposite consequences.

First, then, it seems just and reasonable to compel all persons contracting for silver money, after the law that raises the paper money to be paid in the country, to receive the

the paper in lieu of it, and at the value struck from the fund, although that be inferior to the real value. This perhaps may not be strict equity *between the contracting parties*, but it is just *from the community*, who have power from the consent of every member, by laws, to prohibit the exercise of a particular natural right inconsistent with the welfare of the whole, and to inflict a penalty upon disobedience to the law. To use silver or gold with the paper, must depreciate the latter. Therefore the law forbids it. This can't be unfair, because every man has notice of what coin he is to be paid in, and *is not obliged to exchange more* for the paper, than he thinks agreeable to the *real worth*. And if any should endeavour such use, the loss of the difference between gold or silver and paper, is a kind of penalty for violating the law, which must be as just as any other penalty imposed on an act, *not evil in itself, but prohibited only*.

Again, upon breach of contracts for payment of money in foreign countries, I think it both convenient and right, that satisfaction should be made in the paper. The convenience of it will appear, if we suppose the debtor a member of the society amongst whom the paper passes; for as such, being restrained by law from trafficking for gold

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or silver, and thereby disabled from procuring them, he must either pay paper in compensation, or lie in a goal, if the severity of his creditors requires it. In these circumstances, no man in his senses would dare to contract a foreign debt, or transfer foreign money in the usual manner, by exchange; the bad consequences of which are too numerous and obvious to admit of, or need particular mention, and evidently prove the convenience of allowing satisfaction to be made in paper.

The equity of this satisfaction will be indisputable, if the debtor pays a sum of paper really of equal value with the foreign money. It is the common case on breach of specifick contract. If it cannot be performed, the most exact justice requires no more than *an equivalent compensation*.

Some persons imagining the real worth of the paper equal to the nominal, have affirmed, that it ought to discharge these debts *at the nominal value*; others confessing a difference between these values, under some political views, have asserted the same. As I shall have occasion to speak on these opinions hereafter, upon a point similar to this I shall only add here, that if this mode of payment should take place, it would as ef-

fectually destroy foreign credit and negotiations by exchange, as if gold or silver were to be insisted on here, to discharge a foreign debt. In one case, it would be the highest imprudence to be the debtor, in the other, it must be equally indiscreet to become a creditor.

Pursuing the uses, I come to that of discharging by paper, the silver debts contracted antecedent to the law that raises the paper.

To shew the necessity of admitting this, I suppose it will be granted me, that there must at all times be a very great number of debtors who depend on their future labour and industry to pay their debts. This dependence is reasonable and just, founded on the natural right of all fairly to purchase silver, the then current money of the country. The debtor has the continuation of this right in view and expectation at the time of his contract; without it he cannot be supposed either prudent or honest to borrow. If then, for the convenience and advantage of the whole society, this right must be taken away by a subsequent law which he could not foresee, it cannot be agreeable either to reason or good conscience, to exact a payment in specie; for that would be re-

quiring a performance when we had expressly taken away the means. Therefore I think it clear in respect to the debtor, that the paper should have this use. But how will this stand with the right of the creditor, who upon the contract as certainly expected to be paid silver, as the debtor did the opportunity of acquiring it to pay.

I presume, if he receives as much paper as shall be equal in power or value to the silver, it will be just in itself, and perfectly satisfactory to him. But can any man offer so high a degree of violence to his own reason, and the understanding of others, as to affirm, if he is forced to accept less, that still he has justice dispensed him. If I borrow 100*l.* in silver before the law, under agreement to repay it at the end of the ensuing year, and before the day of payment the law takes place, commanding the lender to receive 100*l.* paper for it, which shall be worth, or have power to procure 82*l.* silver money only; with truth can this be called a rational or upright law? Certainly no. Nor shall it be any justification to me in conscience to detain 18*l.* of my creditor's money.

The rules of natural justice flowing from our fixed and unchangeable relations to each other,

other, and the invariable nature and order of things, enforced by the express commands of God, are of eternal and indispensable obligation. No laws, no combinations of human power, customs, usages, or practice, can controul or change them. We may, by the consent of a majority, tie up the compulsory hand of the civil magistrate, and thereby dissolve the power of coercive laws, but can no more absolve from the moral duty, than we can reverse decrees enrolled in heaven. If my debtor should be so extremely weak, as to suppose this not criminal because it is legal, (which I think next to impossible to imagine of a rational creature, and I make bold to affirm, never was the case of a creditor of understanding, sufficient to know the measure of his demand) his opinion perhaps may serve for an excuse, or extenuation of his crime, but never can prove the rectitude of the act, and still the guilt must rest somewhere. The law-makers, the authors of his mistake, are culpable, unless they are under the same delusion, which is yet more difficult to apprehend. Some, who gave up the justice of the law, defend their practice under it, by saying, they are creditors as well as debtors: and as they are obliged to receive, so they should have liberty to pay. Alas! what feeble arguments satisfy, when they are cast

into the scale of interest, and gain is the consequence of conviction. If the actions of men towards us are to be the measures of our dealing with others, then he that is cheated by any person, may justly plunder the next he meets. And truly I can't see why it should stop here; for as we may be many times defrauded, and not know it, to be secure, and keep the ballance on the right side, we should pillage our neighbours as often as an opportunity offers. This may seem severe reasoning, but really I think it fair from the first position; that because one keeps back part of another's due, therefore he may honestly detain the right of a third innocent person.

Again, paying an equivalent cannot be injurious to the debtor. For suppose he pays 120 *l.* paper. If 100 pounds worth of coin'd silver, reduced to bullion, will then yield him so much, what does he more than perform his contract to pay 100 *l.* of coin'd silver? seeing a compleat recompence is perfectly consistent with the right of each contracting party. Any remaining objections must arise from its being hurtful or injurious to the society in general. This has been asserted, and endeavours have been used to support the truth of it, by this kind of reasoning.

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*First*, if the law should oblige the debtor (for the purpose) to pay 120 *l.* paper in lieu of 100 *l.* silver, the legislature would thereby confess the inferior worth of the paper, which will be attended with this ill consequence, that the general current value of the paper shall be less than if the law had declared it equal to silver.

*Secondly*, That lessening the current value will be a loss to the society in general. To the first, That obliging to pay a larger sum of paper for a less of silver, acknowledges an inequality of value under the like denominations is self-evident. But from thence to infer, that the paper shall pass in general, at less value than if they had been declared equal, with submission, I think mistaken, and inconclusive reasoning.

To be clearly understood, permit me to examine this upon the fact. Suppose the law, in the strongest terms, enacts that the paper shall be in value equal to silver money, according to their several denominations. Carry the paper from thence to use, by offering it in exchange or payment for some commodity, and then I ask a short question, Who it is that really sets a value on the paper, the legislature, or the person that has the commodity to sell? If it be answered, the first, then I say, this cannot be, unless they

also limit the price of the commodity. For if the seller can raise and proportion the price of it to what he thinks the real worth of the paper, the law-maker's declaration notwithstanding, it is he that strikes the value, and not they. For instance, put the case; a farmer, just upon emitting the paper, has a bushel of wheat to sell, which he rates at, and will not part with, under three silver shillings. The future current worth of the paper being unknown to him, let him by guess imagine these three shillings equal to four shillings paper. A purchaser then presses him, under the influence of the law, to accept of three paper shillings for this wheat; but he, without regard to the law, according to his own opinion, demands and receives four shillings for it. Will any man say, the legislature determined the value of the paper here? Apparently the seller did. For the legislature commanded, that the three paper shillings should be valued at three of silver, but the farmer has made his estimate at three fourths of that value only. Unquestionably the vender must always have this power, unless, as I said before, the law-makers can limit the price of all commodities, which is not practicable, consistent with the order of things, or the preservation of men's properties. But it may be alledged, although the receiver of the money

ney is not bound to observe the legislative command, yet still it may have some weight. He may consider it to be the impartial opinion of the wisest part of the society, what the future current value of the paper shall be, and thereby add, in some degree, to its worth.

In answer I must observe, first, this gives up the point of power, and changes it to a matter of meer advice. Then, supposing that of any import, surely delivering it in a mandatory way, will be very little able to produce the desired effect. Imperative advice (pardon the expression) favours too much of selling the rabbit, to prevail or persuade. In short, the words command and advise, convey two ideas so widely different, and so opposite and repugnant to each other, that it is absolutely impossible we should take the first for the last. But granting it to be interpreted as a piece of cordial advice. Shall it be received implicitly, and pass without any examination? I presume not. When it comes to be examined, if the people should be informed, that, upon a nice examination, the legislature had found a fourth, fifth, or sixth difference between silver and paper, as such calculations are generally out of the reach and comprehension of most people, it seems not improbable that the paper might pass at first,

first, agreeable to the given difference. *I say at first*; for I contend, if the calculation should be erroneous, (which the use of the money in time will discover) this effect shall not be lasting. But if, on the contrary, they learn that the paper, without any calculation, by guess, was pronounced equal to silver, which every man's judgment, who knows the superior power of the last, must disapprove of, what influence can the legislative advice then have? Undoubtedly it will be universally rejected, and each person turned at large to make his estimate as well as he can, without the least regard to the legislative opinion.

Once more, take it, that the quantity of silver in 100 shillings proclamation money is now worth 120 paper shillings in Pennsylvania, and suppose this requisite had hitherto been omitted in all laws relating to the paper: let the supreme authority to-day enact, that from henceforth all persons shall give as much for 100 shillings paper as they do now for that quantity of silver, would this make the least alteration in the current value of the paper? Might a man, with reason, expect to buy more bread or wine to-morrow with 100 paper shillings, than he can to-day? if the legislative power can bring this to pass, perhaps it may prove more than  
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some people desire ; for I conjecture it will shew, that we never had any occasion for paper. Whatever quantity of silver we had amongst us, when the paper was struck, might have been extended in value proportionable to our wants, and all the business of paper-money done at once. The absurdity of this lies open to the meanest capacity ; yet I aver, that to raise the value of paper by authoritative words or commands, is equally irrational and unfeasible.

I know no just means whereby mankind can give value to things, but increasing or lessening the *uses* or *quantity*. The paper derives its *intrinsic worth* from THE FUND which is stable and fixed. The *uses* give it further value, but that shall always be in inverse proportion to the quantity. The quantity is absolutely under the direction of the legislature, but the uses not. As they are raised, so they must be limited, by our necessities, and the disposition and order of things. The utmost the legislature can do, or is needful to be done, is to make the paper answer *all those uses*. When they have ascertained the FUND, the *uses* and *quantity*, their power expires. And the current value, if the people receive it, flows from them by so unavoidable and a necessary consequence, that whatever the legislature or others will



will or do, (if it alters not the fund, uses, or quantity) can work no change in it in general. For a time, as long as people are ignorant, I confess it may ; but when experience, that excellent mistress, has disclosed what worth they give, all imaginary value shall cease and vanish, and on the three requisites, as on a solid and firm foundation, it shall ultimately rest and settle.

I conclude what I have to say on this point with a short observation. That all the attempts of assemblies in America in this way even by penalties on disobedience, have proved fruitless and abortive. And it has been extremely remarkable, that although transgressing the law, by making a difference between silver and paper, has been every day's practice, not in secret, but openly, I have never heard, that any person has been so much as questioned publicly, or has lost any degree of reputation privately for doing it. So far do the dictates of just and right reason surpass and transcend the force and power of any human device or institution, that opposes or contradicts them.

I come now to consider the second position ; that lessening the current value will be disadvantageous to the society in general.

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This cannot be maintained without proving, that it will occasion a loss, or obstruct some gain.

A society can gain but two ways, from the earth, and from their neighbours. When I say from the earth, I do not mean from her simple productions only; for I include therein mens labour and manufactures upon them afterwards. Excepting distinction, which has no weight in the present question, they can lose only by the contrary, neglecting the fruit and product of the earth, and suffering their neighbours to carry away their wealth.

I presume it will be very hard to shew, how a different valuation of the money can influence the industry of the land-holder or the artisan.

Upon the quantities of the fruits of the earth, and manufactures produced, entirely depend the wealth of the country. A farmer and tradesman, for a certain portion of their commodities one year receive 8 shillings, and with them can purchase an ounce of silver. The money being raised in value next year, they can get but 7 shillings for the same quantities; but still that sum will buy an ounce of silver. Can this difference,

ference, in the value of the paper, cause the one to till the more or less ground, or the other to make a greater or less quantity of his manufacture? What is it to them how the money is rated, if they receive and part with it at the same value? Gold, comparing quantity to quantity, is more valuable than silver. If silver was to vanish out of the world, and gold should be made the only medium of commerce, can any one imagine that mankind would grow more industrious to procure it, because more valuable than silver, when the quantity they shall get must be proportionably less? Do we in fact find these different effects from gold or silver at present? I think we may as reasonably expect, that varying the measure of the bushel or yard, will induce people to make more or less corn or cloth, as that changing the value of the money, which is another kind of measure for commodities, should excite or abate men's diligence to raise and make them.

All gain from our neighbours must be by getting their money or their goods. These are to be acquired only by conquest or commerce. The first I pass over as impertinent to this purpose. Then let us see whether advancing the value of the money can reflect any gain to us from them in the latter. Gain in trade may be considered as derived

rived from the manner or the measure of it. The manner of trade in general is of short circuit, and consists of importing foreign money or commodities, and the exportation of our own. In these negotiations we shall find the worth of the paper affords us no advantage over, or an opportunity to get from our neighbours.

Suppose a foreigner imports 800 *l.* proclamation money, and finding That not the medium of our commerce, proposes to exchange it for paper. Let the value of the paper be such, that he can get but 800 *l.* of it for his silver. With the paper he purchases corn, which he transports. What have we got from this foreigner? 800 *l.* in silver. Should we have got less had he received 1000 *l.* for his silver, and with it bought the same quantity of wheat? Certainly no. Neither case makes us richer or poorer than the other; and the same consequence will be found to attend all foreign imports whatever.

When we export our commodities, the value of the paper is quite out of the question; for in their sales, or the returns, it is in no sort concerned. If we send the paper abroad, and sell it, unless it be kept in expectation of what the fund will yield for it at the end of the term (which I intend to  
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speaking to hereafter) we shall find it but an exchange of merchandizes between us and them. For the seller brings the goods he receives here, and the buyer, by means of the money, carries back our goods; the paper is but a measure, as it was in the case of imports and exports in return; and if it be rated alike abroad and at home, no loss or gain can ensue to either country, or to the traders from a high or low valuation of it.

He that is not satisfied by these reasons, may perhaps be convinced by the experience of others. The coins of England being finer than those of Holland, quantity to quantity, are of more value; but was it ever thought the English had therefore more power or traffick, to obtain the money and merchandize of other nations, than the Dutch?

Were it possible that the profit of trade could be affected by lowering the coin, that cunning and skilful generation would hardly have debased theirs by design, much less have continued for so long a time as they have done. The paper-currency of New England, by a great excess in the quantity, is sunk to a shameful degree. From hence we hear of much fraud and dishonesty amongst them; but it was never yet objected that it injured them in trade. In truth, if it had, as they principally subsist by commerce,



merce, they must have been ruined and undone long ago.

The currencies of North and South Carolina are in the same condition; but still their trades go on as usual, without the least alteration. In respect to the measure of our commerce, it is evident that cannot be impaired by reducing the value of our money, unless we are thereby deprived of a sufficient quantity to carry it on: for instance, if 60,000 *l.* proclamation money be necessary to carry on all our trade, and we strike 60,000 *l.* paper, in hopes it shall have that value, upon experience it proves worth but 50,000 *l.* proclamation. Then, for want of the remaining 10,000 *l.* some of the wheels of trade must stand still or move slower, which apparently will obstruct a part of our gain. But the impediment vanishes, by raising an additional sum of paper equal to the 10,000 *l.* deficiency. The power of doing this we have hitherto enjoyed and exercised without any restraint; and probably shall retain as long as we use it with discretion and prudence.

Seeing then, that by raising the value of our money, we are not likely to get any thing from our neighbours, let us now try whether by lowering it they can get any thing from us. I presume I have proved, that in com-

mon commerce, receiving and returning the money for merchandizes, they cannot ; consequently no method remains, but keeping the money to receive silver from the fund at the end of the term. By these practices they can gain from us only upon one supposition ; that they purchase the money at less than what I call the intrinsic worth ; for if at more they lose by it, and we gain from them. I have shewn, rating interest at 6 *per cent. per annum*, that 1000 *l.* payable at the end of 15 years, is worth 500 *l.* to take a round sum, in hand. If our neighbour can buy it for 400 *l.* he gets 100 *l.* from us. But on the contrary, if he gives 800 *l.* for it, he loses 300 *l.* For he lends us 800 *l.* for 15 years, at 2 *l.* 8 *s.* *per cent. per annum*, when it is really worth 6 *l.* and the difference, which on computation will be found in the whole to amount to 300 *l.* or nearly, we gain from him. But neither of these cases can possibly happen while men have the least capacity to discern and preserve their own interest. Indeed I have never heard one sound reason, either moral or political, for this manifest deviation from justice and equity. So far is it from good policy, that if I am not mistaken, it must work an effect contrary to the design ; and instead of supporting the credit of the paper, undermine and diminish it.

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The public authority is guarantee for the payment of all just debts. Every body must agree, that the value of paper money is nothing but so much public credit. Now, is it possible for the public authority to break its own engagements, in respect of the payment of the debts, without in some degree blasting that credit which is to be the support of the money? Public and private faith are, in this respect, exactly alike; and it is as easy to see how violating one public obligation shall impair the value of the paper-money, as how a known breach of private contract in a goldsmith should lessen the worth of his bills or notes.

A second inconvenience attending it, is loss of foreign credit, which must be a great misfortune to a trading country. This is occasioned in the same manner, by which I just now shewed the value of the money might be affected; and let it not be thought amiss that I mention a third inconvenience, namely, prostituting and debasing the dignity and excellence of the divine and moral laws in the eyes of the people, and encouraging them, by ill practices and examples, to depart from true honesty and virtue. For if a man can once believe, he may justly, by human authority, transgress those laws, he loses much of the due and necessary respect

that ought to be paid them, and shall afterwards be able to resist their checks and admonitions with greater ease and facility: and he that owes to 20 people, and pays them with five sixths of their due, and sees his neighbour do the like, under colour of law to-day, will, I am afraid, with less regret and compunction, defraud his creditors without a law to-morrow.

But now, granting entire recompence ought to be made, it may be asked how the quantum of paper to be paid for antecedent silver debts shall be ascertained.

The legislature cannot settle it with exact justice, because no skill can discover what the future current value shall be; and if the people are left to do it themselves, it will introduce many law-suits and oppressions, and still they may be as far from right as if the legislature had done it. The greater inconveniencies in the latter, rationally determine the power to the former. When they come to exercise it, if it is the first experiment of the kind, I imagine they can do little more than guess at the value. But as it is within demonstration, that the paper cannot be equal to silver, surely it ought not to be rated so. Impartiality requires the guess to be as near as may be, and then, although it

may be mistaken upon the laws of changes it may be perfectly equal, because either party may lose or gain. It is a common case in life, and must be always so in untried things, and no man can justly complain of the event, because all errors are owing to our weakness, not our faults.

If any of our neighbours have issued paper-money, the value of theirs will afford us strong lights to discover the worth of our own, and allowing for different circumstances, we ought to rate ours as they have found theirs upon trial. But when experience has taught us the true worth of the money, all difficulty ends, and whatever debts or pre-contracts remain (as many from their growing nature must) should be satisfied according to that value.

I have now run through all the uses that occur to me worthy of observation; and therefore shall proceed to the quantity.

When it is designed, that paper shall be the only money of a country, the quantity, according to the nominal value, ought to be, as near as possible, adequate to the uses, or in other words, to all commerce, foreign and domestick. It is easier to see the truth of this rule in speculation, than to reduce



it to practice; because the number and extent of the uses of money, in a populous and industrious country, are far beyond our knowledge and comprehension. From the circumstances of other places, the quantity of money current before issuing the paper, and the value of their exports, rational conjectures may be formed, but experience alone can teach us what sum will suffice. To strike the necessary quantity at once, would be most advantageous to the society, and equal with respect to individuals; but as that cannot be known, let it be approached as near as may be. And since we may expect to err, I presume it will be better to err on the side of deficiency than excess, seeing additions are easy, but subtractions oftentimes very difficult after emission.



FROM what I have said above, which the foregoing treatise doth fully confirm and elucidate, the following propositions, which I apprehend to be truths, do arise. That in colonies, the essence of whose nature requires a progressive increase of settlements and trade, and yet who, from the balance of trade with the mother country being against them, must suffer a constantly decreasing quantity of silver money, *a certain*

*tain quantity of paper-money* is necessary. It is necessary to keep up the increasing operations of this trade, and these settlements; it is also necessary, in such circumstances, to the equal distribution and general application of these benefits to the whole colony, which benefits would otherwise become a monopoly to the *monied merchant only*: it is prudent, and of good policy in the mother country to permit it, as it is the surest means of drawing the balance of the colony trade and culture to its own profit.

These reasonings further shew, how, by securing the *fund*, extending the *uses*, and regulating the *quantity*, this measure of a paper-currency may be carried to the utmost extent of which it is capable. Nor do they stop here; for as they give the rule whereby to judge of the excess or defect of money in any place whatsoever, so do they, at all times, shew the necessity of encreasing it, or the contrary.

Although the reasonings, which from my own sentiments of the matter, I have applied to this subject, and those, with which I am able to oblige the world, by publishing the above very judicious and able tract, do perfectly coincide in these points: yet upon the point of the *USES*, in considering the reme-

dies to be provided against the iniquity of any fallacious depreciation of this paper-money, our reasonings seem to divide on quite different sides of the question. The author of the above tract asserts, that in colonies, where paper-money is created, the people of that colony *should be compelled by law to receive* it in payments: and he states two or three different cases in proof of his assertion. My opinion suggests, that this paper-money ought *by no means to be a legal tender*: and yet, different as these propositions may appear, they will be found to coincide in the application of the remedy; in the only proper and radical remedy, *the not permitting the paper-money to be a legal tender*. This gentleman experienced in the politicks of the colonies, and knowing the danger, if not the impracticability, of any legislature in these colonies adopting this maxim, takes up the reasonableness and necessity of this paper-money being forced into payments by law;—but then, in all the cases wherein he states the remedy in equity, against the injustice, which may arise from the artificial value of this paper-money thus declared, he firmly and justly declares, that the payment thus by law forced upon the creditor *in paper, ought not to be according to the nominal legal value* of that paper, but according to the real value, an equivalent to the debt.—

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This judgment totally destroys the maxim of its being a legal tender. In the application therefore of the remedy, our opinions do not differ, but the truth of them becomes the more elucidated by this coincidence of two thus seemingly different propositions.—I will therefore proceed in saying, that by the reasonings above it appears, that the only and proper remedy, against the iniquities of a falacious, depreciating paper-currency, is *that radical one, of not permitting this paper-money to be a legal tender.*—On the other hand, so confirmed am I in my opinion of the necessity and propriety *of a certain quantity* of paper money in the colonies, that were I not convinced, that the restraining of it from being a legal tender, will not destroy the existence of it, but, on the contrary, amend its currency; I would even sacrifice my conviction to this point of utility: but whatever apparent value this paper-money may seem at first view to lose by restraint of this one use, this very restraint, (if the colonies will have paper-money) must become an occasion of so meliorating and securing the *fund*, of so exactly regulating *the quantity*, and of adding some *other valuable use*, namely an interest, or some premium equivalent to it; that the paper-money shall become thus intrinsically, and of its own nature, a better and surer currency than all the power and authority of colony-government could make

make it. For not being forced into currency, by any external value derived from authority, it must, like bullion in coin, derive its currency from its intrinsic value and applicableness to the purposes of money ;— so that thus becoming, from necessity, a more determinate measure, a more practical instrument of trade, and a more beneficial deposit, as bearing an interest even while in currency, it becomes to have *all the uses* of bullion in coin, and one more,—— so as even to bear a premium,——which in fact is the case of the treasurer's notes in the province of the Massachusetts-bay in New England, though they are not a legal tender.

However, here, as on every other point, I have stated the reasonings on both sides of the question :——I have brought the question to its issue, and left those, whose duty it is, and who have a right to do it, to determine the truth and right of it.

Matters being revised and regulated as to the several points of the constitution, and internal police, our politicks ought next to consider and have regard to those relations, by which the interests of the American settlements stand referred to the Indian country, and its inhabitants. Our colonies must necessarily



cessarily have connections both of trade and politicks with these people, of a nature different from any other, as they are planted in countries inhabited by a race of people, who differ in their circumstances and in their politicks from any other nation with whom there remains, either in history or on record, any example of alliance.

Perhaps it may not be unentertaining, I am sure it is necessary to the true knowledge of Indian affairs, to take up this subject somewhat higher than has been usual in the ordinary way of considering it.

The different manner in which this globe of earth is possessed, and occupied by the different species of the human race which inhabit it, must form the specific difference in their interests and politicks.

The human race, which are at present found on this earth, may be precisely divided into three families, generically, and in their essential properties, distinct and different each from the other. And, for aught I know, it is to this natural truth, that the heaven-directed pen of the author of the books of Moses may refer, when he gives precisely and only three sons to Noah. These three different species, or race, are—The white  
race—

race—the red—the black. It is not barely the colour of these two first, which distinguishes them; the form of their skull, and their hair, where there has been no mixture, is specifically different from each other; and a true Indian will not judge by any other distinction: the black race has wool instead of hair, as also a form of skull different from each. These books, after having given a philosophical account, cloathed in drama, of the origin of things, seems to confine its real narrative to the history of the white family, to that race of people who have been landworkers from the beginning, who, wherever they have spread themselves over the face of this globe, have carried with them the art of cultivating vines, and fruit trees—and the cultivation of bread corn; who, wherever they have extended themselves, have become settlers, and have constantly carried with them the sheep, goat, oxen and horse, domiciliated and specially applied to the uses and labour of a settlement.

Of the black family I say nothing in this place, as not concerned in the present consideration.

The red family, wherever found, are wanderers. The Tartars are in one part wandering herdsmen, and in other parts hunters

hunters and fishermen. The American inhabitants, Indians, as we call them, from the word Anjô, or Ynguo, signifying a man in their language, are the same race of people from one end of the continent to the other; and are the same race or family as the Tartars, precisely of the same colour, of the same form of skull, of the same species of hair,—not to mention the language and their names.

America, in its natural state, is one great forest of woods and lakes, stocked not with sheep, oxen, or horses; not with animals of labour, and such as may be domiciliated, but with wild beasts, game and fish; vegetating not with bread-corn, but with a species of pulse, which we call maize, of which there is great doubt whether it be indigenous or not.—All therefore that this country afforded for food or raiment must be hunted for. The inhabitants consequently would naturally be, as in fact they were, *not land-workers, but hunters; not settlers, but wanderers*. They would therefore, consequently, never have, as in fact they never had, any idea of property in land, of that property which arises from a man's mixing his labour with it. They would consequently never have, as in fact they never had, any one communion of rights and actions as extended

ed to society ; any one civil union ; and consequently they would not ever have any government. They know no such thing as administrative or executive power, properly so called : they allow the authority of advice, a kind of legislative authority ; but there is no civil coercion amongst them : they never had any one collective actuating power among the whole, nor any magistrate or magistrates to execute such power.

The race of white people migrating from Europe, still continue landworkers, and have made settlements in parts of America which they occupy, and have transported thither bread-corn, sheep, oxen, horses, and other usual and domestic animals, that are domiciliate with these settlers.

They are a community—they are a society—they live under government, and have a fixed property in their lands, have a fixed permanent interest, which must subsist *under a continued series of security*. The locality of the labour of these settlers, necessarily produces a reciprocation of wants and an intercommunion of supply, by exchange of mutual necessities. This also leads to an intercourse of commerce with others, who are not immediately within their community—

nity—And hence arises a commercial interest to these settlers.

From the European desire of having the furs and peltry of the Indian hunters, and from the Indian desire of having the more useful and necessary tools and instruments of improved life, an artificial reciprocation of wants has arisen between the European settlers, and the original inhabitants of America, which hath gradually extended itself to many articles not at first called for—And from this intercourse of commerce has arisen a necessary relation of politicks between them.

The only true spirit which ought to actuate these politicks, must arise from a due knowledge of the circumstances and interests of each, and from a constant invariable attention to that composite interest which is formed by their alliance.

The interest of a community of settlers must lye in *a permanent series of security* to their cultured lands, as the making settlements is by the successive yearly application of repeated labour, and of its eventual future effect. Settlers and landworkers want but small tracts of land; but must have a fixed and permanent local property therein. A nation of hunters require a much greater  
extent



extent of country, in proportion to the wide extended produce of a hunt, to the local bounded produce of a farm or settlement; so that the Indian property of country consists of two sorts, their dwelling lands, and their hunt.

The interest of a tribe of wanderers lyes in the protection and support of the aged, of the women and children—under the temporary locations of dwelling, which the severity of the winter season, the occasion of the procuring pulse in the season of vegetation, and the times of parturition, render necessary even to wanderers.

As fixed regulations and protection of trade, must be the essential spirit of the politicks and the law of nations to a commercial nation \*, so an exact and strict observance

\* Hunting being but the amusement, the diversion of a nation of settlers, the rights and laws of it may not appear as national points—but to a nation of hunters these become the national interests and the laws of nations.—A violation of these laws of nations; as subsisting between nations of hunters, was the cause of the war between the Five-nation confederacy, and the Oillinois. The Ohio hunt, to the south-east of lake Erie, was common to these nations; the laws of the hunt required, that at each beaver-pond, the Indians should leave a certain number of males and females; the Oillinois, on some occasion of pique, destroyed all.  
The

servance of the laws of sporting, the protection of the game, and the most rigid sanction of the *hunt*, (better perhaps understood by our sportsmen than our politicians) become the *laws of nations* to an *hunting nation*.

From these principles let us carry our considerations into facts.

The European landworkers, when they came to settle in America, began trading with Indians; and \*obtained leave of the Indians to cultivate small tracts as settlements or dwellings. The Indians having no other idea of property, than what was conformable to their transient temporary dwelling-places, easily granted this. When they came to perceive the very different effect of settlements of landworkers creating a permanent property always extending itself, they became

The Five-nations declared war against the Ojibwes. The Indian war ends not but in the total reduction of the one or the other. The Ojibwes were totally conquered. The conquered country, as well as the hunt, became the right of the Five-nations, and were, amongst the rest of their lands, put, by them, into the hands of the English in trust.

\* Perhaps New-England may be an exception: The Indians began an unjust war against them; they conquered these Indians, and their claim is best, as well as justly, founded in conquest, which the Indians acknowledge.

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very uneasy ; but yet, in the true spirit of justice and honour, abided by the effects of concessions which they had made, but which they would not have made, had they understood beforehand the force of them.

From this moment the politics of the Indians were fixed on, and confined to two points. The guarding their dwelling lands and their hunts from the encroachments of the European settlers ; and the perpetually labouring, to our utter shame, in vain, to establish some equitable and fixed regulations in the trade carried on between them and the Europeans.

The European encroachments, not only by the extent of their settlements, but by their presuming to build forts in the Indian dwelling lands, and in the territories of their hunts, without leave, or by collusion ; and the impositions and frauds committed against the Indians in trading with them, has been the occasion of constant complaint from the Indians, and the invariable source of Indian hostilities : and yet even these might have been surmounted, were it not that we have constantly added an aggravation to this injustice, by claiming a DOMINION in consequence of a *landed possession*. Against this the free spirit of an Indian will revolt, to the last drop of his blood : This will be perpetual,  
unre-

unremitted cause of war to them against us. Against it, they have at all times, and upon all occasions protested, and they will never give it up. As long as we keep up this useless, faithless claim of dominion over them, so long shall we be embroiled in war with them. The European power may perhaps finally extirpate them, but can never conquer them. The perpetual increasing generations of Europeans in America, may supply numbers that must, in the end, wear out these poor Indian inhabitants from their own country; but we shall pay dear, both in blood and treasure, in the mean while, for our horrid injustice. Our frontiers, from the nature of advancing settlements, dispersed along the branchings of the upper parts of our rivers, and scattered in the disunited valleys, amidst the mountains, must be always unguarded, and defenceless against the incursions of Indians. And were we able, under an Indian war, to advance our settlements yet farther, they would be advanced up to the very dens of those savages. A settler, wholly intent on labouring on the soil, cannot stand to his arms, nor defend himself against, nor seek his enemy: Environed with woods and swamps, he knows nothing of the country beyond his farm: The Indian knows every spot for ambush or defence. The farmer, driven from his little

cultured lot into the woods, is lost: the Indian in the woods, is every where at home; every bush, every thicket, is a camp to the Indian, from whence, at the very moment when he is sure of his blow, he can rush upon his prey. The farmer's cow, or his horse, cannot go into the woods, where alone they must subsist: his wife and children, if they shut themselves up in their poor wretched loghouse, will be burned in it: and the husbandman in the field will be shot down while his hand holds the plough. An European settler can make but momentary efforts of war, in hopes to gain some point, that he may by it obtain a series of security, under which to work his lands in peace: The Indian's whole life is a warfare, and his operations never discontinued. In short, our frontier settlements must ever lie at the mercy of the savages: and a settler is the natural prey to an Indian, whose sole occupation is war and hunting. To countries circumstanced as our colonies are, an Indian is the most dreadful of enemies. For, in a war with Indians, no force whatever can defend our frontiers from being a constant wretched scene of conflagrations, and of the most shocking murders. Whereas on the contrary, our temporary expeditions against these Indians, even if successful, can do these wanderers little harm. Every article of their  
property



property is portable, which they always carry with them—And it is no great matter of distress to an Indian to be driven from his dwelling ground, who finds a home in the first place that he sits down upon. And of this formidable enemy, the numbers, by the latest accounts, are 23105 fighting men.

If we entertain an idea of conquest, in support of this ambitious folly of dominion, we must form such a series of magazines and entrepôts for stores, ammunition and provisions; we must maintain in constant employ such a numerous train of waggons for the roads, such multitudes of boats and vessels for the waters; we must establish such a chain of fortified posts; we must support such a numerous army; we must form and execute such an enlarged and comprehensive system of command, as shall give us military possession of the whole Indian country. Let now any soldier or politician consider the enormous endless expence of all this conduct, and then answer to what profitable purpose such measure leads, which may in a much better and juster way be obtained.

If our government considers this well, and will listen to those who are best versed in Indian affairs, it will be convinced that honesty is the best policy; and that our domi-

nion in America, will be best and surest founded in faith and justice, toward the remnant of these much injured natives of the country.

In this hope, and with this view, I will endeavour to state the Indian rights and our duty toward them ; and to point out that line of conduct, which leads to it—And first of the Kenunſioni, or the Five-nation confederacy.

The Indian lands are of two kinds—— Their dwelling land, where their castles are, and their hunting ground. The dwelling lands of the Kenunſioni, or the Five-nation confederacy, is called Kenunſionîga, and is at the top or highest part of the continent, from whence the waters run every way—By the waters of Canada into the gulph of St. Laurence, by all the rivers of the English colonies into the Atlantic ocean, by the waters of the Mississippi into the gulph of Mexico. They may, in a general manner, be thus described, by a line run from near Albany, north-westward, along the Mohawk river on the north side of it, north round Oneida lake, to the north-east corner of lake Ontario ; thence along the lakes to Canahôga on lake Oswego or Erie ; thence sixty miles directly back into the country ; thence

to Shamôkin, on the Susquehanna river ;  
 thence along the Cushiêtung mountains ;  
 thence again to the lower Mohawk castles.  
 The Indians themselves describing, under confidence, to a friend of mine at Onondaga, this their situation, said, “ That it has many advantages superior to any other part of America.  
 “ The endless mountains separate them from  
 “ the English, all the way from Albany to  
 “ Georgia. If they should have any design against the English, they can suddenly  
 “ come down the Mohawk’s river, the Delaware, the Susquehanna, and Potomac,  
 “ and that with the stream. They have the  
 “ same advantage of invading the French,  
 “ by the waters of the river St. Lawrence,  
 “ Sorel, &c. If the French should prevail against this country, they can, with  
 “ their old men, wives and children, come  
 “ down the streams to the English. If the  
 “ English should prevail in attacking their  
 “ country, they have the same conveyance  
 “ down to the French ; and if both should  
 “ join against them, they can retire across  
 “ the lakes.”

Their hunting lands are—*First*, Coughsachraga, a triangle, lying on the south-east side of Canada, or St. Lawrence river, bounded eastward by Saragtoha, and the drowned lands ; northward, by a line from

Regiôchne point (on lake Champlain, or, as the Indians call it, Caniaderiguarûnte, the lake that is the gate of the country) through the Cloven Rock, on the same lake, to Oswegatchie, or la Galette; south-westward by the dwelling lands of the Mohawks, Oneidas, and Tuscaroraos.

*Secondly*, Ohio, all that fine country (and therefore called Ohio) lying on the south and east sides of lake Erie, south-east of their dwelling lands.

*Thirdly*, Tieuckfouckrondtie; all that tract of country lying between the lakes Erie and Oïlinois.

*Fourthly*, 'Scaniaderiada, or the country beyond the lake; all that tract of country lying on the north of lake Erie, and north-west of lake Ontario, and between the lakes Ontario and Hurons.

The right of the Five-nation confederacy to their dwelling lands and the hunting ground of Couxfachrága, and even down to the bottom of lake Champlain, was never disputed. The lands to the northward of Regiôchne, and la Galette, have long since been ceded to the Canada Indians as an hunting ground.

In

In the year 1684, the Five Nations finding themselves hard pressed by the French and their Indians, did, by a treaty at Albany, put the lands and castles of the Mohawks and Oneidas *under the protection of the English government*: and the English accordingly undertook *the trust* to guarantee them to these Indians. And as the external mark, by which this act and deed should be announced, the Indians desired that the duke of York's arms might be affixed to their castles.

The right of the Five-nation confederacy to the hunting lands of Ohio, Tieûck-fouchrondite and 'Scaniaderiada, by the conquest they had made in subduing the Shaö-anaes, Delawares, (as we call them) Twictwes and Oïlinois, may be fairly proved as they stood possessed thereof, at the peace of Reswick, in 1697.

In the year 1701, they put all their hunting lands under the protection of the English, as appears by the records, and by the recital and confirmation thereof in the following deed.

In the year 1726, the Seneccas, Cayougaes and Ononda-agaes acceded to the same terms of alliance, in which the Mohawks and Oneidas were already—So that the  
whole



whole of the dwelling and hunting lands of the Five-nation confederacy were put under the protection of the English, and held by them IN TRUST, for and to the USE of these Indians and their posterity.

Copy of Agreement with the Sachems of  
the Five Nations.

TO all people to whom this present instrument of writing shall come, Whereas the Sachems of the Five Nations did, on the nineteenth day of July, One thousand seven hundred and one, in a conference held at Albany, between John Nanfan, Esq; late lieutenant-governor of New York, give and render up all their land where the beaver-hunting is, which they won with the sword, then 80 years ago, to Coorakhoo \*, our great king, praying that he might be their protector and defender there, for which they desired that their secretary might then draw an instrument for them, to sign and seal, that it might be carried to the king, as by the minutes thereof, now in the custody of the secretary for Indian affairs at Albany, may fully, and at large appear.

WE, Kanakarighton and Shanintfaronwe, Sinneke Sachems; Ottfoghkoree Dekaniforee and Aenjeueratt, Cayouge Sachems;

\* It is by this name that they mean the King of England.

Raclyakadorodon and Sadageenaghtie, Onondaga Sachems, of our own accord, free and voluntary will, do hereby ratify, confirm, submit and grant ; and by these presents do (for ourselves, our heirs and successors, and in behalf of the whole Nations of Sinnekes, Cayouges and Onondages) ratify, confirm, submit and grant unto our most Sovereign Lord George, by the Grace of God, King of Great Britain, France, and Ireland, Defender of the Faith, &c. his heirs and successors for ever, all the said land and beaver-hunting, *to be protected and defended by his said majesty, his heirs and successors, to and for the use of us, our heirs and successors, and the said three Nations ;* and we do also of our own accord, free and voluntary will, give, render, submit and grant, and by these presents do, for ourselves, our heirs and successors, give, render, submit, and grant unto our said Sovereign Lord King George, his heirs and successors for ever, all that land lying and being sixty miles distance taken directly from the water, into the country, beginning from a Creek called Canahôge, on the lake Oswego, all along the said lake, and all along the narrow passage from the said lake to the falls of Oniâgara, called Canaquaraghe, and all along the river of Oniâgara, and all along the lake Catarqui to the creek called Sodons, belonging to the Sinnekes, and from Sodons to the hill called Tegechunckserôde, belonging to the Cayouges,

youges, and from Tegechunckferôde to the creek called Cayhunchâge, belonging to the Onondages; all the said lands being of the breadth of sixty English miles as aforesaid, all the way from the aforesaid lakes or rivers, directly into the country, and thereby including all the castles of the aforesaid three Nations, with all the rivers, creeks and lakes, within the said limits, *to be protected and defended by his said majesty, his heirs and successors for ever, to and for our USE, our heirs and successors, and the said three Nations.*—

In testimony whereof, we have hereunto set our marks and affixed our seals, in the city of Albany, this fourteenth day of September, in the thirteenth year of his majesty's reign, *Annoque Domini 1726.*

The mark of  
Raclyakode-  
rondon.



a Sachem of  
the Ononda-  
ges. (L. S.)

The mark  
of Kana-  
karighton



a Sachem  
of the Sin-  
nekes.  
(L. S.)

The

The mark of  
Otsfoghkoree,



a Sachem of the  
Cayouges.  
(L. S.)

The mark of Sa-  
degeenaghtie,



a Sachem of the  
Onondages. (L. S.)

The mark of  
Dekaniforee,



a Sachem of the  
Cayouges.  
(L. S.)

The mark of  
Shanintfa-  
ronwee,



a Sachem of  
the Sinnekes.  
(L. S.)

The

The mark  
of Aenjew-  
eratt,



a Sachem of  
the Cayou-  
ges. (L.S.)

Signed, sealed, and delivered,  
in the Presence of us

Philip Livingston,  
Peter Vanbrugh,

Mynderst Schuyler,  
Lawrance Clausen.

Secretary's Office, New-York. The pre-  
ceding is a true copy of the Record in Lib.  
Patents, Numb. 9. p. 253, 254. Examined  
and compared therewith by

GEO. BANYAR, Deputy Secretary.

Instead of executing *this trust* faithfully and  
with honour, by extending to the Indians  
our civil protection against the frauds of the  
English, and our military protection against  
the attempts of the French, we have used  
this trust only as a pretence to *assume a domi-  
nion* over them—We have suffered the En-  
glish settlers to profit of every bad occasion  
to



to defraud them of their lands—We have never made any effectual regulations to prevent their being defrauded in their trade; and until our own interest appeared to be affected, we abandoned them to their own chance and force, opposed to the strength of a powerful enemy. Nay, when at last we thought necessary for the sake, not of national faith and honour, for the sake, not of these our faithful allies, but for the sake of our own safety and interest to interfere, in opposing the French encroachments, we took it up as disputing the empire of America with the French; not as protecting and guarding the Indian lands and interest to their use, agreeable to the sacred trust by which we were bound.—And thus these savages (as we to our own shame call them) repeatedly told us, “ That both we and  
 “ the French sought to amuse them with *sine*  
 “ *tales* of our several upright intentions;  
 “ that both parties told them, that they  
 “ made war for the protection of the Indian  
 “ rights, but that *our actions* plainly disco-  
 “ vered that the war was only a contest  
 “ who should become masters of that coun-  
 “ try, which was the property neither of  
 “ the one nor the other.” Since we have driven the French government from America, we have confirmed this charge of the Indians against us, by assuming that dominion  
 5 which

which in faith and justice we cannot say we have gained over the Indians, which, in fact, we have not gained, and which, be it remembered, will cost more blood and treasure before we do gain it, than it is for the honour and interest of Great-Britain to expend in so bad and useless a cause. While these poor tribes of hunters remain, it will be our own fault if they do not remain in perfect harmony and good alliance with us. As hunters, their interest can never interfere with ours, as settlers ; but, on the contrary, will become the source of the natural and most profitable trade to us as traders. They are continually wearing away, and as they diminish or retire, they cede their lands to us in peace ; which we, thus in time as fast as we can really want them, may possess in right and justice, untainted with the impeachment of having been gained by murder and fraud. While therefore we do remain a great and just nation, as we pride ourselves Great-Britain is, we should abhor the black base thought of using the power which providence hath given us, to the ruin and destruction of these brave and free people ; of these people who gave us our first settlement in this country, and have lived with us, except under some temporary interruptions, in a series of faithful alliance.

If

If these considerations, taken up in the course of that general review of the colonies, and of the administration of their affairs, which I now publish, were intended as an express treatise on Indian affairs, I should think it right to examine all the complaints and several claims of justice which the Five-nations have made, and have repeated for many years, which I would found first on extracts from the records of Indian affairs, and secondly, on the history of the landed patents, and thirdly, of the occasions taken to erect, without their leave, forts on the Indian lands, which measure the Indians always consider as an act of dominion. In this general view I shall only point out that shameful patent of Ka-y-adarofferos above Albany: that pretence of claim by the corporation of Albany for the Mohawk-flats, the very residence of the Mohawks, and some others on the carrying place, at the head of the Mohawk river---all which ought to be taken into immediate consideration, that justice may be done both to the Indian and European claimants; and that the matter may not remain perpetual cause of umbrage, and perhaps the source of war. Government ought also very seriously to revise the principles on which they are now endeavouring to take possession of the Indian country by forts and

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garisons;

garisons ; built many within the Indian dwelling lands, and many within their hunting lands, and on the passes and communications of these. It is undoubtedly right to maintain the command of that country ; but there is a way to do it with safety and justice. The measures we are taking by force will be found to have neither the one nor the other in them ; nor do I see how common prudence can adopt the enormous charge to which such measures must lead.

We have seen that Sir William Johnson, although he took Niagara *from the French* by force of arms, never considered this as a conquest of these lands *from Indians* ; but has, agreeably to his usual prudence and his perfect knowledge of Indian affairs, obtained by formal treaty, a cession of these lands from the Indians to the crown of Great-Britain. The wisdom, as well as the success of this example, ought to lead our politics to the same conduct in every other case, where we have built or obtained forts within their lands, especially as many of them were built under express promise of their being dismantled as soon as the war should cease : and as the Indians were expressly and solemnly promised to have a satisfaction given to them for the use of these lands.

The

The Shawänese and Delawares are more immediately connected with the province of Pennsylvania ; and although, as subdued, they are under obedience to the confederacy of the Five-nations ; yet, under tutelage and protection of the confederacy, they possess their rights to their own country. Was this, as I have said, a particular treatise on Indian affairs, I might here point out “ *the causes of the alienation of the Delawares and Shawänese Indians from the British interest, by extracts from the public treaties, and other authentic papers relating to the transactions between the government of Pennsylvania and the said Indians for near forty years past,*” as set forth in a memoir which I have had by me for many years. I could also from a series \* of letters for ten years, from Monsieur de Vaudreuil, while governor of Louisiana, to his court, point out those neglects and errors, as also the manner in which the French profited of those our errors, by which we lost the Cherokees, and other southern tribes.

After what has been explained, it will be sufficient here to say, that, 1st, Doing justice to our faith and honour, by treating the In-

\* These letters in manuscript are authentic ; but I am not at liberty to say how they came into my possession.



dians according to the real spirit of our alliances with them; 2dly, That doing the Indians justice in their lands, and 3dly, giving up that idle, useless claim of dominion over them, are points absolutely and indispensibly necessary to be adopted into our politicks, unless we have seriously taken the resolution to force our way by war. Until these points are adopted, we never shall have peace——And it deserves thorough and mature deliberation how we engage to settle and possess America by war.

These measures of sound policy once fixed upon, the next step is to establish an Administration for the conducting Indian affairs—This part of the plan is in part adopted, by dividing the management of Indian affairs into two Intendencies—one for the northern, the other for the southern nations—But, as every thing which I could say further on this head hath been some years past stated in the memorial annexed to these papers, I will here refer the reader to that memorial on these points. The measures recommended therein I have by an opportunity of comparing them with the events of eight years, found to be such as I do most sincerely wish to see carried into execution. And if a private person might presume to obtrude advice, that has not formerly been neglected, I would now venture  
to

to recommend the consideration of these measures to those whose duty it is to act upon these matters. When these matters shall be settled as they ought to be, then it may be time to take up the consideration of proper regulations for the Indian trade; and when that time comes, if a plan, which I have accidentally seen, be carried into execution, I would venture to say, that every thing which can or ought to be done in Indian affairs will be effected.

If with the same spirit, guided by the same principles \*, a revision was made of the laws of trade, so far as they respect the colonies, it would answer more wise ends of government, and more the interest of the governed, both here as well as in the colonies, than any endeavour, even tho' successful, to carry the present laws into execution.

The principles on which the act of navigation is founded are just, and of sound policy, but the application of them, by the modes prescribed, as the laws now stand, to the present state of the colony trade, is neither founded in justice or prudence. Any spirit that would force this application, would injure the principles themselves, and prove injurious to that commercial interest, which

\* This hath been in part done by the late American revenue act.

those very acts of trade mean to secure to Great-Britain : whereas, upon a due revision of those laws, it would appear that there are means of producing this same end consistent with the particular interest of the colonies, and what would carry the general commercial interest of the mother country to the utmost extent that it is capable of.

Before I proceed I cannot avoid quoting, and laying before the reader a passage in a letter written by Sir William Temple to lord Effex, in July 22, 1673, concerning the state of Ireland, wherein the reader will see the survey taken of the trade of that country, at that time so apposite to the state of the trade of the colonies at this season, that it will be impossible not to apply it. “ In  
 “ this survey one thing must be taken notice  
 “ of as peculiar to this country, which is,  
 “ that as in the nature of its government,  
 “ so in the very improvement of its trade  
 “ and riches, it ought to be considered not  
 “ only in its own proper interest, but like-  
 “ wise in its relation to England, to which  
 “ it is subordinate, and upon whose wealth  
 “ in the main, that of this kingdom  
 “ depends, and therefore a regard must be  
 “ had to those points wherein the trade of  
 “ Ireland comes to interfere with any main  
 “ branches of the trade of England, in which  
 “ case the encouragement of such trade ought  
 “ to

“ to be either declined or moderated, and so  
 “ give way to the interest of trade in Eng-  
 “ gland. Upon the health and vigour  
 “ whereof the strength, riches and glory  
 “ of his majesty’s crown seem chiefly to  
 “ depend. But on the other side, *some such*  
 “ *branches of trade ought not wholly to be*  
 “ *suppressed*, but rather so far admitted as  
 “ may serve the general consumption of the  
 “ kingdom, *lest by too great an importation*  
 “ *of commodities, though out of England it-*  
 “ *self, the money of this kingdom happen to be*  
 “ *drawn away in such a degree, as not to*  
 “ *leave a stock sufficient for turning the trade*  
 “ *at home.*”

The general principle of the laws of trade  
 regulating the colony trade, is, that the co-  
 lonies shall not, on one hand, be supplied  
 with any thing but from a *British market*,  
 nor export their produce any where but to  
 a *British market*. In the application of this  
 principle, the present laws direct, except in  
 some special particulars, that the colonies  
 shall import all their supplies *from Britain*,  
 and carry all their produce *to Britain*.

If now, instead of confining this market  
 for the colonies to Britain only, which is  
 a partial and defective application of the ge-  
 neral principle whereon the act of Naviga-

tion is founded ; this colony trade was made, amidst other courses of trade, an occasion of establishing *British markets even in other countries*, the true use would be derived to the general interest from these advantageous circumstances, while in particular the colonies and the mother country would be mutually accommodated. In the first case, the general interest, perverted to partial purposes, becomes so far forth obstructed ; in the second, it would be carried by the genuine spirit of it to its utmost extent.—If, under certain restrictions, securing also those duties which the produce of the colonies, carried to market, ought to pay to the mother country, the colonies were permitted to export their produce (such as are the basis or materials of any British manufacture excepted) directly to foreign countries, if so be they sold it to any *British house* established in such place, and were also permitted, if they bought their supplies from a *British house* established in those parts, to supply themselves with the natural fruits and produce of that country (all manufactures that any way interfere with the British manufactories excepted) paying there to some British officer, or upon their arrival in the colonies, the same duties as they would have paid by purchasing the same commodities in England, every end proposed by the principal of the act of Navigation would be answered ; the exports of the colonies  
would



would be encouraged ; and *the British market* greatly extended.

The colonies would not only trade to, and be supplied by, a *British market*, but would become an occasion of establishing that British market in foreign countries. The same reasons of commerce, which, in a narrower view, became the grounds for establishing factories at Petersburg, Riga, Hamborough, Lisbon, Cadiz, &c. would on a more general and extensive basis become the foundation for establishing and building up *these British markets* in every region to which our trade extended itself ; for while it necessarily enlarged the special interest of the colonies, it would enlarge it only at British markets, and to the final profit of the British general commerce. The profits of such market finally centering in Great Britain. If this maxim be not true, that the profits of the factories settled in foreign ports finally center in Great Britain, the measure of establishing such is false in policy ; if the maxim be true, the permitting our colony exports to go directly to the ports where such factories are established, is not contrary to the principle on which the act of Navigation arose, but becomes coincident with, and aiding to it, in extending the British navigation and British markets, and securing the final profits thereof to Britain only.

If

If this method of reasoning be found not contrary to the principle of the act of Navigation ; if this measure at the same time that it encourages the trade of our colonies, is found to do it in a way subservient to the general commerce of Great Britain, extending the British markets, and securing the final balance of profit to Britain only ; if this spirit of administration, so far as government has a right to direct the course of trade, be adopted in this part of it, the great points which it has to secure, are first, that the colony exports to, and the supplies purchased by them from these foreign ports, *be sold and bought at a British market only.*—The government has a right to extend its laws to these colony traders, and to the factories established in foreign ports.——It can therefore, partly by such laws as it finds proper to enact, for the regulation of this factory trade, and partly by obliging these colony traders to give bond before their departure from the colonies, secure and confine all these transactions of that commerce, which is permitted at any such port, to a British market only, the laws that established these being a favour extended to the colonies, and promoting the interest of these factories, would, as all laws of trade should do, execute themselves ; and by giving the requisite powers to a consul or naval officer resident

dent there, would be easily administered by such officer.

The next point to be guarded, would be the securing those duties which this trade ought to pay to the government of Great Britain ; If the same duties were paid, or security for them taken in these foreign ports, as would be or should be paid by the colony trade, if the traders were still obliged to come to Britain, every end would be answered to the government revenue, and these charges might be sufficiently secured, by obliging all these traders to sail under bond. The arrangements to be taken in such case ought to be that of adding to the office of consul, such powers as in the colonies, before the establishment of special revenue officers there, were given to the naval officer, or to establish a naval officer. The consul or naval officer, in this branch of his administration, should be subordinate to the commissioners of the customs and the lords of the treasury. If the duties were collected by him, in the ports of his district, he should account and give security for the same ; if bonds only, as security for the payment at such British or plantation ports, were given, he should keep the register of the same, and correspond with the commissioners of the customs, and such officers as they direct,

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as to the fulfilling, cancelling, or prosecuting to effect said bonds. These general arrangements taken, together with such further special regulations, as the experience of the commissioners of the customs should suggest, the revenue of the colony and factory trade, under this mode of administration, would be well secured, cheerfully paid, and easily collected.

Under the administration of such measures, there does not appear any reason why all the produce of the British colonies, which are not the basis of, or do not interfere with the British manufactures, might not be carried directly to a British market at a foreign port,—and why the carrying of rice to foreign ports might not be extended, under these laws, to all such foreign ports whereat a British factory is established.—Nor under this mode of commerce can any sufficient reason upon earth subsist, why the colony traders should not be permitted to load at these ports, the fruits, wine, oil, pickles, the produce of that country, and also such raw unmanufactured produce, as would not interfere with the manufacture of Great Britain, instead of being obliged to come to Britain to buy or reload here, after the expence of an unnecessary voyage, those very commodities which they might have bought in a *British market*,

*market*, at the port which they left. Why not any of these as well as salt, as well as wines from the Madeiras and western isles? In the same manner, by the same law, why may not our colony traders be permitted to carry sugar, ginger, tobacco, rice, &c. to such ports in the rivers Weser and Elbe, in the Sound and in Russia, whereat a British factory is, or may be established? It can never be right policy to suffer labour in vain in a community: it is just so much lost to the community: and yet this coming round by England is labour in vain: If the subordination of the colony-trade, and the duties arising thereon, can be by any other means secured, it is so much labour lost. The two points of a *British market*, and the revenue of the duties being secured, why may not these traders be permitted to load at these ports directly for the colonies, hemp, yarn, and such coarse linens, as do no way interfere with the British manufactories? These measures taken, which would prove to be the true means of encouraging the colony-trade, the best method to put a stop to the contraband trade carried on in this branch of business, and the true grounds whereon to establish the general commercial interest of Great Britain, Government could not be too strict in enforcing the execution of the laws of trade, nor too severe in punishing the  
the



the breach of them.—Wherever they found these traders endeavouring to carry from these ports to the colonies raw silk, silks, velvets, foreign cloths, laces, iron, steel, arms, ammunition, sails or rigging, or any manufactures whatever, that interfere with the manufacture of Great Britain: whenever they found these traders endeavouring to carry from the colonies to those ports, any dying-wood whatever, indigo, cotton, silk, bees or myrtle-wax, flax-seed, naval stores, furs, skins or peltry, hides, provision, grain, flour, bread or biscuit; whale-oil, blubber, bone, or any other fish-oil, or tallow, or candles, with an exception perhaps to myrtle and spermaceti candles, Government could not be too strict and watchful to restrain them. Under proper regulations, the rum of the northern colonies should be carried to Africa, and the sale of it to the French on the banks of Newfoundland encouraged, if such vent could be procured, as we should thereby reap at least some share even of the French Fishery.

In the above revision of, and the proposed regulations for the colony trade, as connected with that of Europe, it will be seen that all mention of East India goods is purposely omitted. I think a special measure might be contrived of supplying the colonies with  
East-

East-India goods, in a way that would effectually put a stop to that contraband trade, by which it is complained they are at present supplied, in a way by which one of the greatest marts in the world, with every attendant advantage to the British general commerce, and the special interest of the East-India trade, might be established.

If measures were at this juncture taken, between the government and the East-India company, so that an East-India ship might annually stop at some island in the West-Indies, the traders, not only of the West-Indies, but of North America, would supply themselves with every advantage at such mart, not only for their own proper consumption, but also for a trade of the greatest extent; and this mart, in return, would be to the East-India company, the collector of all the surplus silver of America, and perhaps even of some of the gold and ivory of Africa also. The extensive advantages of this measure cannot but be seen; nor would this any way interfere with that supply with which the East-India trade, by way of the Manilla's, furnishes the Spanish West-Indies, so far as our East-India company may be supposed to be concerned, but would, in other respects, open a better channel of trade between the East and West-Indies, which

our company must command. The difficulties in the execution lie in securing to government the revenue that should arise from the duties duly paid by this trade, and in securing the company against the perversion of this trade to the profit of their officers and servants.—If some of the islands surrendered to us, as the Granadas, or of the neutral islands, were made the place of this mart, with a grant of lands to the company, at the same time that a profit might derive hence to the company, the collateral good advantage to the public would arise, of having created a very beneficial settlement.

In the same manner, some revision of the state of the trade of the colonies of the several maritime powers amongst each other will be necessary.—The laws and ordinances of these do in general prohibit all trade of foreign colonies with their own;—and yet, without some such trade as supplies the Spanish provinces with British goods and provisions, as supplies the British colonies with Spanish silver, as supplies the French islands with British lumber, fish, provisions, horses, and live stock, as supplies the British colonies with French molasses, the trade and culture of these colonies would be greatly obstructed and impaired; and yet notwithstanding this fact, our laws of trade,  
by

by an impracticable duty, extend to the prohibiting the importation of French molasses into our colonies.—If the government, under this law, could prevent effectually this importation, not only into the northern colonies, *but into the British isles also*, the reward of that pains would be the destruction of a beneficial branch of trade, perhaps of driving the British American distillery into the French, Dutch, or Danish isles, or of forcing the French, contrary to their own false policy, into a profitable manufacture of that produce which they now sell as refuse materials. I need not point out here the very essential change that this would make in the colony trade.—On the contrary, it is the duty of government to permit, nay even to encourage, under proper regulations, these branches of trade; in the first place, in order to extract out of the foreign colonies, to the benefit of the British commerce, as much as possible the profits of these colonies, and which is more material, in order to create a necessary dependance in the trade and culture of those colonies for their supplies on the British commerce.—When it is remembered that the law, which lays a duty equal to a prohibition, on the importation of French molasses in the British colonies, was obtained at the solicitation of the British isles, it will be seen, that the obtaining

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this law is not so much meant to prohibit totally the introduction of French melloffes into the British trade, as to determine a struggle between the West India and North American traders, who should have the profits of it. And thus, from the predominant interest of these partial views, has government been led to embarrass the general courses of its trade.—But as the West India traders see that this law has not, never had, and never will have the effect proposed, they will be better reconciled to its ceasing; and as government must now, after the experiment, see the false policy of it, there is no doubt but that it will cease, so far as to reduce the duty to a moderate and practicable charge, such as will be paid, and such as will raise to the crown a very considerable revenue thus paid.

I speak not this by guess; but, from a comparison of the quantity of sugars and melloffes brought to account in the custom-house books of the *King's revenue*, with the quantity of the same article, in the same ports, brought to account in the impost-books of the *colony revenue*, for six years together, could, with some precision, mark the extent of it. I own I did always apprehend that two-pence *per* gallon on foreign melloffes imported into any British plan-



plantation, and so in proportion of sugars, was the best rate at which to fix this duty ; that being thus *moderate*, it might be easier and with less alarm and opposition collected, and might therefore the sooner introduce the practice of fair trade, and the sooner become an *effective revenue* : But when I see a groundless clamour raised, which represents the rate fixed by the late revenue-act as destructive of the American distillery, as ruinous to the American fishery, as a prohibition of the returns made from the foreign islands for the North American fish ; I must own that I have never seen any fact stated, or calculation fairly made on which such assertions found themselves.

The French isles, since the surrender of Canada and Louisiana, must depend entirely for their supplies of lumber, staves, heads, provisions, live stock, horses, &c. on the British colonies, immediately exported from thence to those isles, unless by some means supplied from markets created at New Orleans and the island of St. Peter, as from another Isle of Man ; it will therefore be the duty of government to keep a watchful eye to the formation and extent of these markets ;—so at least, if they be permitted, as to have the command of them, and so as to prevent their being, to the French traders,

the means of supplying the Spanish markets also, as well as their own.

Since the writing of what the paragraph above contains, very proper regulations have been by the late American-revenue act provided; and if proportionate care be taken in the execution of it, this danger is for the present guarded against.

Some revision also will be necessary in the laws about naval stores, especially that respecting the masts. The present law, under an idea of preserving the White Pine or mast trees, directs, That no White Pines shall be cut or felled within the limits of any township, if not actually private property.—This part of the law arises from a mistaken apprehension of a township, there being no lands within such but what are private property.—*2dly*, That no Pines out of a township, of the dimensions of 24 inches and upwards, diameter, at the height of 20 inches from the ground, shall be felled.—This part of the law is *felo de se*.—Those who find their profits in cutting down these trees for logs or making shingles, &c. or who know the embarrassments which would arise to their property, if they should ever apply for a grant of these lands, by letting such Pine-trees, the property of the crown,  
grow

grow there, never (if they have not other means to evade this law) will permit these Pines to come to *this dimension* which makes them royal property. The false policy of this law, and the defects in the establishment of an office of surveyor-general of his Majesty's woods, will soon, if not obviated, be felt in the scarcity and price of masts, which will be the effect of it. The necessity of their going a great distance from the rivers for the masts has already taken effect, and the case of there being none within any practicable distance will soon follow. The navy-office finding that their mast ships do come regularly hitherto to England, cannot entertain any fear of such want, and it will be the interest of others to suppress and contradict this fact; yet it is a fact, and will be soon known in its effects. On the contrary, if it is considered how disproportionate a value the price of the Pine-tree growing bears to the price of the mast when brought in the middle of winter, over the snow, with 70 or 80 yoke of oxen to the water-side; if, instead of aiming to make these trees, thus growing, *royal exclusive property*, the crown was not only to permit a free masting in lands not granted, and to make the mast-trees of all dimensions, *private property* on lands actually granted, but also (as it is done in other cases of naval stores) to give a bounty

bounty besides the price, to the person who should bring down any such masts to the water-side, it would have an immediate effect in supplying the crown with masts at a cheaper rate, and in the preservation of these trees, thus become a branch of trade.

I would wish here also to recommend the giving some advantages and encouragement to the importation of American timber into Great Britain.

I have not gone into the thorough examination of these subjects above-mentioned, nor have I pointed out, in all their consequences, the effects that this or that state of them would have. I have only pointed them out as worthy the attention of government; and, I am sure, whenever government takes them under consideration, they will be better understood than any explanation of mine can make them.

Were some such arrangements taken for a revision and further establishment of the laws of trade, upon the principle of extending the British general commerce, by encouraging the trade of the colonies, in subordination to, and in coincidence therewith, the trade of the colonies would be administered  
by

by that true spirit from whence it rose, and by which it acts; and the true application of the benefits which arise to a mother country from its colonies would be made. Under this spirit of administration, the government, as I said above, could not be too watchful to carry its laws of trade into effectual execution.—But under the present state of those laws, and that trade, there is great danger that any severity of execution, which should prove effectual in the cases of the importation into the colonies of foreign European and East-India goods, might force the Americans to trade for their imports, upon terms, on which the trade could not support itself, and therefore become in the event a means to bring on the necessity of these Americans manufacturing for themselves. Nothing does at present, with that active and acute people, prevent their going into manufactures, except the proportionate dearness of labour, as referred to the terms on which they can import; but encrease the price of their imports to a certain degree, let the extent of their settlements, either by policy from home or invasion of Indians abroad, be confined, and let their foreign trade and navigation be, in some measure, suppressed;—their paper-currency limited within too narrow bounds, and the exclusion of that trade which hath usually supplied them with silver-money too severely insisted upon;  
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—this proportion of the price of labour will much sooner cease to be an object of objection to manufacturing there, than is commonly apprehended. The winters in that climate are long and severe; during which season no labour can be done without doors. That application therefore of their servants labour, to manufactures for home consumption, which under any other circumstances would be too dear for the product created by it, becomes, under these circumstances, all clear gains. And if the colonists cannot on one hand purchase foreign manufactures at any reasonable price, or have not money to purchase with, and there are, on the other, many hands idle which used to be employed in navigation, and all these, as well as the husbandmen, want employment; these circumstances will soon overbalance the difference of the rate of labour in Europe and in America. And if the colonies, under any future state of administration, which they see unequal to the management of their affairs, once come to feel their own strength in this way, their independence on government, at least on the administration of government, will not be an event so remote as our leaders may think, which yet nothing but such false policy can bring on. For, on the contrary, put their governments and laws on a true and constitutional basis, regulate their money, their  
revenue,

revenue, and their trade, and do not check their settlements, they must ever depend on the trade of the mother country for their supplies, they will never establish manufactures, their hands being elsewhere employed, and the merchants being always able to import such on \* terms that must ruin the manufacturer. Unable to subsist without, or to unite against the mother country, they must always remain subordinate to it, in all the transactions of their commerce, in all the operation of their laws, in every act of their

\* This is a fact too well known and understood to need any particular proof—but if need were, the writer of these papers could demonstrate this from the prices of wool, hemp, and flax, and the labour of carding, dressing, spinning, weaving, &c. in North America, compared with the prices of the same articles of produce and labour in Britain. It is therefore an idle vaunt in the Americans, when they talk of setting up manufactures *for trade*; but it would be equally injudicious in government here to force any measure that may render the manufacturing for *home consumption* an object of prudence, or even of pique in the Americans. And yet after all, should any thing of this sort extend itself to a degree that interfered with the exports of Great Britain to the colonies—the same duties of an excise which lie upon the manufactures of Great Britain, levied upon those of America, would soon restore the balance. This consideration, one might imagine, would induce those who are prudent in America, to advise the rest to moderation in their opposition.

government:—The several colonies, no longer considered as demesnes of the crown, mere appendages to the realm, will thus become united therein, members and parts of the realm, as essential parts of a one organized whole, *the commercial dominion of Great Britain.* THE TAKING LEADING MEASURES TO THE FORMING OF WHICH, OUGHT, AT THIS JUNCTURE, TO BE THE GREAT OBJECT OF GOVERNMENT.

The END.

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# A P P E N D I X.

## S E C T I O N I.

**A**LTHOUGH the following papers, at the time in which they were written, had reference to the state of the service as opposed to the French measures and power in America: Although they are parts of another work intended to be published at some future time, yet they are here annexed to *the Administration of the Colonies*, as they treat of matters very worthy present consideration; and as in general they contain ideas of police, which respect the possession, preservation, and improvement of those acquisitions which our conquests have put into our hands,—and the forming them into some system of Empire that shall be the Empire of Great Britain.

The first paper, which had for its object the forming of the British possessions, together with those of our allies the Indians, into a system of barrier against the French, was written at a time when the subject was entirely new, scarce ever brought forward to consideration here in England, and when authentic accounts of the true state of the country as possessed by the English and French, were with great difficulty, if at all, to

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be

be obtained ; and I may venture to say, utterly unknown to our military.

The latter of these papers, was written after it became necessary to change the object of the war ; and the only thing which I wish to say of the ideas that it contained, is, that they were literally justified by the events.

## A M E M O R I A L :

STATING the NATURE of the SERVICE in NORTH AMERICA, and proposing a GENERAL PLAN of OPERATIONS, as founded thereon.

*Drawn up by Order of, and presented to, his Royal Highness the Duke of Cumberland, 1756.*

HIS Majesty has now united the service in North America into one power of action, and under one direction, by appointing a commander in chief over all North America, with powers to direct, and with force to carry on this service as a one whole. The next and necessary point therefore is, that there should be some *one general plan of operations* fixed, which may be carried on, not only by the general forces employed in the general and military part of this plan, but by every particular province and colony, within its own private councils, and own private



private operations, coincident with the whole. When such plan is fixed, every sum of money that is raised for this service, will be applied to what shall be of real service and permanent use; and every the most minute operation that is undertaken, will become as part of such plan, "Ἔργον εἰς αἰετὶ ;——and every (the most otherwise insignificant) measure would become of more importance, and more service, than twenty the most expensive and bustling operations, that arise from momentary and partial starts of whim, vanity, or interest: There could not even a logg house be built, nor scarce a piquet stuck down in any part of the country, but what would be a necessary measure and whose use (however trifling the thing in itself) would extend to the grand service of the whole: There would not be a pound, scarce a penny raised, but would have its share in this grand service. On the contrary, while private persons, or particular independent bodies of people, have consulted only the momentary partial starts of whim, vanity, party, or interest, under the influence of such motives, without any general scheme to the defence of the country, the *taking possession* of it, or the command of it, without any reference to any general idea, forts have been built up and down the country, that could never have been of use, have never been used, have never been supported, have been left to go to ruin, have been abandoned to the enemy; or, if they have been kept up at all, have been a private standing job to all concerned in them: While thus large sums of money have been squandered away to no use, or bad ones; while thus fruitless detached measures, that have

been of no use, but a perversion and incumbrance on the general service, and interfering amongst each other, have been pursued by vague, random fits and starts, the public service has not only been ruined, but the people have lost all opinion and confidence in military operations, have been discouraged and alienated from engaging in any active measures, and always suspicious, that whatever sums they give to such, are either thrown away, or put into the private pocket of some jobb. On the contrary, were there some one general plan of operations formed, upon the practicability and really intended execution of which they might confide, the assemblies might be persuaded, the people would be willing, and I verily believe, would be persuaded to give amply and chearfully : So that it is not only necessary to the gaining the end proposed, but also absolutely necessary to the gaining the means, that some such general plan should be fixed.

In order to which, the following paper proposes to consider,

1<sup>st</sup>, The site of the country :

2<sup>dly</sup>, The interests of the possessions and settlements :

As the basis of

3<sup>dly</sup>, The state of the service in America.

It becomes necessary to a right understanding of these proposed objects, to recur and run up to the first principles on which they were founded,  
not

not only because the subject is *new*, but because it has been misconceived, and misrepresented.

1<sup>st</sup>, Prior to any observations on the settlers and settlements, it will be necessary to take some notice of the peculiar state and site of the countries, in which they are settled : For it is the site and circumstances (I mean those that are unchangeable) of a country, which give the characteristic form to the state and nature of the people who inhabit it.

The consideration of the continent of America may be properly divided into two parts, from the two very different and distinct ideas that the face of the country presents, but more especially from the two distinct effects which must necessarily, and have actually arisen, from the two very different sorts of circumstances to be found in each tract of country.

All the continent of North America, as far as known to the Europeans, is to the westward of the endless mountains, a high level plain : All to the south-east of these mountains, slopes away south-easterly down to the Atlantic Ocean. By a level plane, I must not be understood, as if I thought there were no hills, or vallies, or mountains in it ; but that the plane of a section, parallel to the main face of the country, would be nearly an horizontal plane, as the plane of a like section of this other part would be inclined to the horizon, with a large slope to the Atlantic Ocean. The line that divides these two tracts, that is the south east edge of these planes, or the  
[A 3] highest

highest part of this slope, may in general be said to run from Onondaga, along the westernmost Alleghani ridge of the endless mountains, to Apalatche in the gulf of Mexico.

2dly, In considering first the main continent, this high plain, it may be observed, with very few exceptions in comparison to the whole, that the multitude of waters found in it is properly speaking but of two masses : The one composed of the waters of the lakes and their suite, which dis-embogue by the river St. Lawrence; the other that multitude of waters which all lead into the Mississippi, and from thence to the ocean; the former into the gulf of St. Lawrence, the latter into the gulf of Mexico.

There are in all the waters of Mississippi, at least as far as we know, but two falls; the one at a place called by the French St. Antoine, high up on the west or main branch of Mississippi; the other on the east branch called Ohio. Except these, and the temporary rapidity arising from the freshes of spring, and the rainy seasons; all the waters of the Mississippi run to the ocean, with a still, easy and gentle current.

As to all the waters of the five great lakes, and the many large rivers that empty themselves into them, the waters of the great Otawawa river, the waters of the lake Champlain, of Trois Rivieres, and the many others that run into the river St. Lawrence above Quebec, they may all be considered in one mass, as a *stagnation* or lake of a wilderness of waters, spreading over the  
country

country by an infinite number and variety of branchings, bays, straits, &c. for although at particular places of their communications, and at the mouths of their streams, they seem to pour out such an immense ocean of waters, yet when they are all collected and assembled together, as at a general rendezvous where they all disembogue themselves into the river St. Lawrence, the whole embouchure of this multitude of waters is not larger than the \* Seine at Paris; the waters of each respective mass not only the lesser streams, but the main general body of each going through this continent in every course and direction, have, by their approach to each other, by their interlocking with each other, by their communication to every quarter and in every direction, an alliance and unity, and form one mass, a one whole.

Let any one raise in his mind the idea of some low country incapable of being travelled, except on the roads, causeways, dykes, &c. that have been made through it, and that these roads have throughout the whole country a communication which connects and forms them into a one system of design, a one whole: Such person will readily conceive how easily and with what few numbers a General may take possession and hold the com-

\* About 12 French leagues above Quebec, over against a place called la Loubiniere, the river St. Lawrence appears to be of a very considerable breadth; but when the tide, which runs up much higher than that place, has at its ebb entirely retired, that breadth which one would have judged to have been that of the St. Lawrence river, remains all dry, except a small channel in the middle, which does not appear to be much larger than the Seine at Paris, nor the waters of it that pass there to have a greater current.



mand of this country ; and when once possessed how easily he may defend it, by fortifying with redoubts and such works, the strong holds and passes in it, and at what an almost insurmountable disadvantage any one who aims to recover it must act, even with twenty times the numbers. If these roads and lines have thus a communication forming a one whole, they are the foundation or basis of a command throughout the whole country ; and whoever becomes possessed of them has the command of that country.

Now let any one behold and consider the continent of America, as it really is, a wilderness of woods and mountains, incapable of land carriage in its present natural unwrought form, and not even to be travelled on foot, unless by the good will of the inhabitants, as such travelling in those woods and mountains is perpetually and unavoidably liable to ambuscades, and to the having the communication from the one part to the other cut off : Let such person also know, that the waters for these reasons have ever been the only roads that the inhabitants use, and until art and force make others, are the only roads that any body of people can in general take. Compare this state of country with what is above described, and the same conclusion, *mutatis mutandis*, will be found to be derived from it.

Seeing this, as fact and experience shews it to be, let such person then recollect what is said above of the communication and alliance amongst the several waters of this continent—of the unity, one mass, and one whole, which they form ;—he will see in a strong light how the watry element claims and holds dominion over this extent  
of

of land ; that the great lakes which lie upon its bosom on one hand, and the great river Mississippi and the multitude of waters which run into it, form there a communication,—an alliance or dominion of the watry element, that commands throughout the whole ; that these great lakes appear to be *the throne, the centre of a dominion*, whose influence, by an infinite number of rivers, creeks and streams, extends itself through all and every part of the continent, supported by the communication of, and alliance with, the waters of Mississippi.

If we give attention to the nature of this country, and the one united command and dominion which the waters hold throughout it, we shall not be surprized to find the French (though so few in number) in possession of a power which commands this country ; nor on the other hand, when we come to consider the nature of this eastern part of America, on which the English are settled, if we give any degree of attention to the facts, shall we be surprized to find them, though so numerous, to have so little and languid a power of command even within the country where they are actually settled. I say a very strong reason for this fact arises out of the different nature of the country, prior to any consideration of the difference arising from the nature of their government, and their method of taking possession of this country.

This country, by a communication of waters which are extended throughout, and by an alliance of all these into a one whole, is capable of being,  
and

and is naturally a foundation of a one system of command: Accordingly, such a system would, and has actually taken root in it under the French. Their various *possessions* throughout this country have an order, a connection and communication, an unity, a system, forming fast into a one government, as will be seen by and by: Whereas the English settlements have naturally, neither order, connection, communication, unity, nor system. The waters of the tract on which the English are settled, are a number of rivers and bays, unconnected with, and independent of each other, either in interest or natural communication within land. The vague dissipated random settlements therefore, scattered up and down these, will have no more communication or connection amongst themselves, than there is amongst the various independent streams they are settled upon.—This country, instead of being united and strengthened by the alliance of the waters which run in it, is divided by these several various streams, detached from, and independent of each other, into many separate detached tracts, that do naturally and have actually become the foundation of as many separate and independent interests.

As far as the communion of the waters of any river, or the communion there may be between any two rivers extends, so far extended will arise a communication of system, of interest and command; the settlements therefore on this tract of country, would be naturally, as they are actually, divided into numbers of little weak, unconnected, independent governments—Were I to point out the  
na-

natural division of these tracts and interests, it would point out a new division of the governments of the colonies, which is not the purport of this paper.—

The consideration of this country, so far as it is connected with, or has any effect upon the interests and politicks of the English settlements, presents itself to view divided in two ideas. *1st*, The country between the sea and the mountains: *2dly*, The mountains themselves. The first part is almost throughout the whole capable of culture, and is entirely settled: The second, a wilderness, in which is found here and there in small portions, in comparison of the whole, solitary detached spots of ground fit for settlements: the rest is nothing but cover for vermine and rapine, a den for wild beasts, and the more wild savages who wander in it.

Thus far of the site of the country, as it becomes the foundation of a natural difference between the English and French possessions in America. The next point that presents itself to consideration is, the manner in which the English and French have taken possession of, and settled in this country: And,

#### *1st*, Of the French.

The French in their first attempts to settle themselves in these parts, endeavoured to penetrate by force of arms, to fix their possessions by military expeditions, till through the perpetual and constant abortion of these measures, and the

cer-

certain disappointment and sure loss that attended them, they through a kind of despair gave over all thoughts of such attempts.

Whether the dear-bought experience that they learnt from hence, or whether despair leaving their colony to make its own way, or whether rather, the right good sense of Mr. Frontenac and Mr. Calliers lead them to it, is neither easy nor material to determine ; but so it was, they fell afterwards into that only path, in which the real spirit and nature of the service led.

The native inhabitants (the Indians) of this country are all hunters ; all the laws of nations they know or acknowledge, are the laws of sporting, and the chief idea which they have of landed possessions, is that of a *bunt*. The French settlers of Canada universally commenced hunters, and so insinuated themselves into a connection with these natives.

While the French kept themselves thus allied with the Indians as hunters, and communicated with them in, and strictly maintained all the laws and rights of sporting, the Indians did easily and readily admit them to a local landed possession ; a grant which rightly acquired and applied, they are always ready to make, as none of the rights or interests of their nation are hurt by it : While on the contrary, they experience and receive great use, benefit, and profit, from the commerce which the Europeans therein establish with them. Whereas on the contrary, the English with an insatiable thirst after landed possessions, have  
gotten



gotten deeds and other fraudulent pretences grounded on the abuse of treaties, and by these deeds claim possession even to the exclusion of the Indians, not only from many parts of their hunting grounds, (which with them is a right of great consequence) but even from their house and home, as by particular instances from one end of the continent to the other might be made appear. Upon these pretences they have driven the Indians off their lands.—The Indians unable to bear it any longer, told Sir William Johnson, that they believed soon they should not be able to hunt a bear into a hole in a tree, but some Englishman would claim a right to the property of it as being his tree:—And whatever the great proprietors, patentees, and land jobbers, may affirm or affect to prove, or however angry they may be with those who declare this truth; this is the *sole ground* of the loss and alienation of the Indians from the English interest, and this is the ground the French work upon.—On the contrary, the French possessions interfere not with the Indians rights, but aid and assist their interest, and become a means of their support.—This will more clearly and better appear, by a more minute and particular attention to the French measures in these matters.

1<sup>st</sup>, No Canadian is suffered to trade with the Indians, but by licence from the government, and under such regulations as that licence ordains. The main police of which is this. The government divides the Indian countries into so many hunts, according as they are divided by the Indians themselves. To these several hunts there  
are

are licences respectively adapted, with regulations respecting the spirit of the nation whose hunt it is ; respecting the commerce and interest of that nation ; respecting the nature of that hunt.

The Canadian having such licence, ought not to trade and hunt within the limits of such hunt, but according to the above regulations ; and he is hereby absolutely excluded under severe penalties to trade or hunt beyond these limits, on any account whatever.

It were needless to point out the many good and beneficial effects arising from this police, which gave thus a right attention to the interest of the Indians, which observed the true spirit of the alliance in putting the trade upon a fair foundation, and which maintained all the rights and laws of the hunt, that the Indians most indispensably exact.

But the consequence of the most important service which arises out of this police, is a regular, definite, precise, assured knowledge of the country.

A man whose interest and commerce are circumscribed within a certain department, will pry into, and scrutinize every hole and corner of that district : When such a hunt is by these means as full of these *coureurs des boix*, as the commerce of it will bear, whoever applies for a licence must betake himself to some new tract or hunt, by which again begins an opening to new discoveries and fresh acquisitions.

When

When the French have by these means established a hunt, a commerce, alliance and influence amongst the Indians of that tract, and have by these means acquired a knowledge of all the waters, passes, portages, and posts, that may hold the command of that country, in short, *a military knowledge* of the ground, then, and not before, *they ask and obtain leave* of the Indians to strengthen their trading house, to make it a fort, to put a garrison in it.

In this manner, by becoming hunters and creating alliances with the Indians as brother-sportsmen, by founding that alliance upon, and maintaining it (according to the true spirit of the Indian law of nations) in a right communication and exercise of the true interest of the hunt, they have insinuated themselves into an influence over the Indians, have been admitted into a landed possession, and by locating and fixing those possessions in alliance with, and by the friendly guidance of the waters, whose influence extends throughout the whole, they are become possessed of a real interest in, and real command over the country. They have thus throughout the country sixty or seventy forts, and almost as many settlements, which take the lead in the command of the country, *not even one of which forts, without the above true spirit of policy, could they support, with all the expence and force of Canada*: Not all the power of France could; 'tis the Indian interest alone, that does maintain these posts.

Having

Having thus got possession in any certain tract, and having one principal fort, they get leave to build other trading houses and entrepôts, at length to strengthen such, and in fine to take possession of more and more advanced posts, and to fortify and garrison them, as little subordinate forts under the command of the principal one.

Though these principal forts have subordinate forts dependent on them, they are yet independent of each other, and only under the command of the governor general; there is a routine of duty settled for these, and the officers and commanders are removed to better and better commands: What the particulars of this are, and of the distribution of the troops, I have not yet learned as to Canada; but in general the present establishment for this service is three thousand men, of which there are generally two thousand three or four hundred effective.

I have not been able to get an exact list of the forts in Canada, but the following is sufficient to sketch out the manner in which they conduct this service.

It will be necessary first to describe the line which now divides Canada and Louisiana in the Illinois country. It begins from the Oubasch at the mouth of Vermillon river, thence to the post called Le Rocher on the river Pæorias, and from thence to the peninsula formed at the confluence of Rocky river and the Mississippi.

Forts

## Forts in CANADA.

|                |   |  |
|----------------|---|--|
| ST. FREDERICK, | { | St. John.<br>Carillon or Tieonderôga.        |
| FRONTENAC,     | { | L' Presentation.<br>Les Coudres.<br>Quintez. |
| NIAGARA,       | { | Torento.<br>One other.                       |

## MISSILIMAKINAC, and its Dependencies.

|                               |       |   |
|-------------------------------|-------|---|
| DU QUESNE,                    | {     | Presq' Isle.<br>Riviere au Bœuf.<br>One other.  |
| LE DETROIT,                   | Two { | 'Twas proposed to the Court<br>in the year 1752, to erect<br>this into a Lieutenancy du<br>Roy.           |
| The Post MIAMIS<br>and SIOUX. |       |   |
| NIPIGON,                      | {     | Two or three.<br>One on the River Michi-<br>pocoton.<br>One other on the Long<br>River.<br>and one other. |
| ST. JOSEPH,                   |       |   |
| LE PETIT PARIS.               |       |   |
| ALIBI.                        |       |   |
| SAGUENAY.                     |       |   |
| ST. JOHNS, in Nova Scotia.    |       |   |
| In all about sixty.           |       |   |

Most of these forts have fine settlements round them, and they do entirely support themselves;  
[B] it



it being usual for both officers and men to defer receiving their pay till the garrison is relieved, which is generally in six years; and scarce any thing is sent to these garrisons, but dry goods and ammunition.

There is a fine settlement at Detroit, of near two hundred families; a better still at St. Joseph, of above two hundred; a fine one at St. Antoine, many fine ones about Petit Paris. But the French government does not encourage these, and has, by a positive ordonance, absolutely forbid any one to make a settlement without special licence; which measure they found necessary to take, in order to restrain the Canadians from totally abandoning Canada.

The establishments, posts, and settlements of Louisiana, are as follow :

Thirty seven companies of fifty men each, and two Suisse companies of seventy five men each.

1. The garrison of New Orleans :

|        |   |     |   |   |   |   |   |   |   |     |
|--------|---|-----|---|---|---|---|---|---|---|-----|
| French | - | 900 | } | - | - | - | - | - | - | 975 |
| Suisse | - | 75  |   |   |   |   |   |   |   |     |

Out of which are garrisoned the outposts of Bálissé, and other small posts.

Detour Anglois : The garrison of this consists of four companies, which have their tour of duty with the Mobile, Illinois, &c.  
Mobile,

|   |              |     |
|---|--------------|-----|
|   | Brought over | 975 |
| Mobile, eight French companies, and one |              |     |
| Swisse                                  | - - - - -    | 475 |

“ It is necessary to fix this number here,  
 “ on account of the proximity of Panfa-  
 “ cola, on one part, and of the English  
 “ on the other; as also to influence the In-  
 “ dians, as there are at our meetings and  
 “ treaties, held here annually with the In-  
 “ dians, sometimes 2, sometimes 3,000  
 “ Indians present \*.

Tombeché, } One company each, a de-  
 Alibamous, } tachment from the garri-  
                   } son of Mobile.

Four companies of this garrison relieved  
 every year.

|                             |   |   |     |
|-----------------------------|---|---|-----|
| The Illinois, six companies | = | = | 300 |
|-----------------------------|---|---|-----|

|                             |   |                                |
|-----------------------------|---|--------------------------------|
| The posts were,<br>in 1752, | { | Caskafias.                     |
|                             |   | Fort de Chartres.              |
|                             |   | Village de St. Philip.         |
|                             |   | Praire de Rocher.              |
|                             |   | Cohôkias.                      |
|                             |   | Village de St. Jeune<br>Veuve. |

|   |   |   |   |   |    |
|---|---|---|---|---|----|
| The Akanfas, a less principal post, one |   |   |   |   |    |
| company                                 | - | - | - | - | 50 |
| The Natches, one company                | = | = |   |   | 50 |

\* Mr. Vaudreuil to the court.

---

1850

|   |              |       |
|---|--------------|-------|
|   | Brought over | 1850  |
| The Nachitoches, one company  | - -          | 50    |
| for the present, on account of their not being able to prevent desertions to the Adages, a Spanish post within 7 leagues of it. They propose, when they shall be able to settle a cartel with the Spanish governor, and his Majesty approves of it, to fix two companies there, it being a frontier post. |              |       |
| The Point Coupe, one company  | - -          | 50    |
| The German Settlement, one company  |              | 50    |
|   |              | <hr/> |
| Total   |              | 2,000 |

The settlements of Louisiana in general, produce Indigo equal to the Guatimalo, which admit three cuttings or crops annually ; rice in great abundance, cotton, but they find great difficulty in cleansing it from the seeds that accompany its growth here, tobacco, pitch, tar, they have a trade with their own islands ; flour, peas, beans, salted or corned wild beef, and pork, hams of hogs and bears, tallow, grease, oil, hides, lumber, planks ; they have also myrtle wax, which they export to France ; they do also, in small quantities, manufacture the buffalo wool. From the abundance and natural growth of mulberry trees, they have their thoughts turned to silk, iron, lead, copper, and coals in abundance ; besides the skins and coarse furs, arising from the Indian trade and hunt, they had, so long ago as in the year 1744, several vessels at their port, which came from Florida and Havanna, and the bay of Campeachy, to trade for boards, lumber, pitch,  
dry

dry goods, and live stock, to the value of 150,000 pieces of eight. They had a settled treaty of commerce with the Royal Company of Havanna, by the terms of which, the French were to deliver them at Louisiana, pitch at two piaſtres a barrel, tar at three piaſtres a barrel, boards at two reals each. Their settlements towards the mouth of Miſſiſſippi, are almoſt deſerted and ruined, the ſettlers not being able to ſupport the expence of banking againſt the inundations of the ſea and land floods. Mr. Vaudreuil ſays, in a letter to the court, September 28, 1752, he thinks it would be much better, to defer for ſome years attempting ſettlements here, till the ground be more raiſed and elevated by the accretion of ſoil, as it has been three feet in fifteen years laſt paſt.

I mention nothing here of the poſts of New Orleans, Detour Anglois, and Balife, nor of Mobile; becauſe, being marine poſts, the conſideration of them does not come within the ſcope of this paper. I will obſerve, that they require our particular attention: They are become the ports to which all the men and ſtores, with which the country of the Ohio is furniſhed, are ſent annually and conſtantly; as from New Orleans to this country, the way is much ſhorter than through Canada, the diſtance being at the moſt, where they are obliged at low water to follow all the windings of the river, not more than 340 French leagues; but at the uſual times that they ſend their convoys, not more than 300, and to which they can go up with decked ſloops, nine or ten months in the year. The trade comes down from the Illinois, about the latter end of

December, and goes up towards the latter end of January, or the beginning of February.

I shall describe the post of Tombechbé, from Mr. Vaudreuil's letters.

April 20,  
1751. This post restrains the Alibamôus, Talapouches, Abekas, and Cowêtas, preserves the communication between the waters of Mobile, Alibamous river and the Mississippi; 'tis necessary for us in order to keep up amongst the Chaëtaws, the spirit of warring against the Chickasaws; 'tis also necessary as an entrepôt in our expeditions against the Chickasaws and English. From hence we can go within seven or eight leagues of the villages of the Chickasaws with periaugoes, by the river Tombechbé, over which, seven or eight leagues of land carriage, we can easily go by land, and carry cohorns and light field pieces: from hence also it is, that we must send out our parties against the Carolinians; yet this fort being a heavy expence, and with great difficulty supplied, and being so situated as to be of no use to hinder the English from going to the Chaëtaws, when that nation is inclined to receive them, as they may conduct their convoys a little above, or a little below the fort, without our being able to oppose them. This being the case, were the Chaëtaws entirely secured in our interest, were the Chickasaws destroyed, and had the English lost and given up all hopes of strengthening themselves in that quarter, as we hope to effect, I then think it would be no longer necessary to keep up this post; yet till this be effected, it must be kept up, and more especially as by sup-  
pressing

January 6,  
1746.

October 28,  
1746.

March 6,  
1749.

September  
24, 1751.

January 12,  
1751.



pressing it now, the Chaftaws would think themselves abandoned. This post, as well as Alibamôus, should always be victualled for a year, left by any revolution in Indian affairs, the road to it should be obstructed.

May 30,  
1751.

As to the posts in the Illinois country, I am not able to describe them particularly; but what appears to be of more consequence, I collect from Mr. Vaudreuil's letters, (from 1743, to 1752) the general idea upon which the fortifying and securing that country is founded.

The first fort of their plan, in fortifying the Illinois country, was on the peninsula, in lat. 41. 30. This was a check upon, and barrier against the several nations of Sioux (not then in confederacy with them.) The next post in this plan was on the river Dorias, (so called after the junction of the Illinois river and Theakiki) which would be of more especial use, if situated on the north of the lake on that river, whence the roads divide, that lead to Massilimakinac and St. Joseph: This he describes as the key to the Illinois country from Canada.

July 18,  
1743.  
August 30,  
1744.

The next is the garrisoning and fortifying the country, from the mouth of Missouris to Kaskasias, where there are five posts. Mr. Vaudreuil thinks that Kaskasias is the principal, as it is the pass and inlet of the convoys of Louisiana, as also of those of Canada, and of the traders and hunters of the post Detroit, and that of the greatest part of the savage nations.

May 15,  
1751.

[B 4]

There

There is also at this post, a river where the floops which come from New Orleans, may be safely laid up in winter.

Mr. M'Carty, who was on the spot, thinks the environs of Chartres a far better situation to place this post in, provided there were more inhabitants. He visited fort Chartres, found it very good, only wanting a few repairs, and thinks it ought to be kept up.

Mr. M'Carty to Mr. Vaudreuil,  
January 20,  
1752.

The next post (I take them in order of place, not of time) which comes into this plan, is on the Ohio, over against the mouth of the Cherokee river: This, he says, would be the key of the colony of Louisiana, would be a sufficient barrier against the English, and restrain their incroachments, and would obstruct their designs in alienating the Indians of the Ohio; it would restrain the incursions of the Cherokees, on the river Ouabash, and river Mississippi; it would also check the Chickasaws, and would by these means secure the navigation of the Mississippi, and the communication with our posts. He here expresses the greatest uneasiness, (as the French court did not care to engage in the measure at that time) lest the English should build a fort here, in which case, says he, we must give up all communication with the Illinois; for the English would become masters of all the navigation of that country.

November  
4, 1745.

August 30,  
1744.  
May 15,  
1751.

November  
4, 1755.

April 8,  
1752.

Mr. Jonquiere proposes another fort at the mouth of Rocky river, (this is in the government

ment of Canada) which, he says, would secure the tranquillity of the south of Canada. This, says Mr. Vaudreuil, together with the post of the Illinois, would restrain and become a barrier against the English, and cover all our Indian allies to the west, from our enemies, the English, the Cherokees, Catawbias, and others.

By these posts above, and the posts of the Miamis, this whole country is secured and fortified. This country, says Charlevoix, (in 1721) will become the granary of Louisiana, and in 1746 we find it actually becoming so; for in that year it sent down to New Orleans fifty ton of flour; in 1747, we find it well furnished with provisions, and having fine crops; and in a letter of Mr. Vaudreuil's 1748, we have an account of its produce and exports—flour, corn, bacon, hams, both of bears and hogs, corned pork and wild beef, myrtle wax, cotton, tallow, leather, tobacco, lead, copper, some small quantity of buffalo wool, venison, poultry, bears-grease, oil, skins, and some coarse furs; and we find a regular communication settled with New Orleans, by convoys which come down annually the latter end of December, and return at latest by the middle of February.

Thus the French do not only *settle* the country, but also *take possession of it*; and by the form, site, and police of such possessions, (led on and established by the guidance of, and in alliance with the waters,) a natural foundation of a one command, have they acquired, and become possessed of *the command of this country*.

By

By these means, I repeat it, have they created an alliance, an interest with all the Indians on the continent ; by these means have they acquired an influence, a command throughout the country : They know too well the spirit of Indian politics, to affect a superiority, a government, over the Indians ; yet they have in reality and truth of more solid effect, an influence, *an ascendancy* \*, in all the councils of all the Indians on the continent, and lead and direct their measures, not even our own allies, the Five nations, excepted ; unless in that remains of our interest, which, partly the good effects of our trading house at Oswego, and partly General Johnson, has preserved to the English, by the great esteem and high opinion the Indians have of his spirit, truth, and honor.

\* I mention nothing here of the influence of the Jesuit missionaries, because nothing is meant less than religion by them.

## EAST.

In the French Interest.

Esquimaux.  
 St. John's.  
 Micmacs.  
 Penobscots.  
 Noridgwalks.  
 Abenakais.  
 St. Francis Indians.  
 Cachnewage.  
 Scaatecoke.  
 Ofwegatchie.

Senekes. } Supposed to be in  
 Onondagas. } the British Inte-  
 Cayugas. } rest, but greatly  
 Onides. } debauched by the  
 Tuskaroras. } French.

Mohawks. } Wholly in the Bri-  
 Mehikanders. } tish Interest.

Delawares. } Lost to the English,  
 Shawenese. } except a few on  
 Susquehanah.

Catawbas. } Supposed in the Eng-  
 Cherokees. } lish Interest, but  
 Chickasaws. } much debauched by  
 the French.

## WEST.

French.

Sioux.  
 Nadonefferies.

Illinois.

Tawigtwaes.

Miamis.

Piankeeshanaes.

Wawyaetaes.

Picques.

Kaskuskies.

Cawetas.

Abekas.

Talaponches.

Alibamôus.

} The four Na-  
 tions of the  
 Creeks, as  
 above.

## NORTH.

Wholly French.

Assinipoeles.

Adirondacks.

Algonkins.

Outawawaes.

Chononderdes

or Hurons.

Messifagues.

Outagamies.

Miscontiris.

Sakis.

Christanaux.

Almipogins.

Nipisenes.

} Skaniadere-  
 roenues.

## SOUTH.

Ofagaes.

Akanfaes.

Chaataws.

Panimaes.

Adages.

} Wholly French.

The English American provinces are as fine *settlements* as any in the world; but can scarce be called *possessions*, because they are so settled, as to have no possession of the country: They are settled as farmers, millers, fishermen, upon bays and rivers, that have no communication or connection of interest, consequently, the settlers belonging to these rivers, bays, &c. have no natural connection.

But



But further, the settlers upon any one river or set of waters, which waters having a connection, might become the natural seat of a one interest, are yet so settled, that they have no connection nor union amongst each other, scarce of communion, much less of defence.

Their settlements are vague without design, scattered, independent; they are so settled, that from their situation, 'tis not easy for them to unite in a system of mutual defence, nor does their interest lead them to such system, and even if both did, yet through the want of a *police* to form them into a community of alliance, unity, and activity amongst themselves, they are helpless and defenceless; and thus may the English be considered as having, for many hundred miles, a long *indefensible line of frontiers*, prior to the consideration of the nature of the enemy they may be engaged with.

3dly, The state of the service as arising from the above facts.

It appears from the first cast of the eye, that the English, without some *preparative measures*, will not be able to carry into execution any military expeditions against the French in the upper part of America; because from any post where they can form an army, and lay in all its stores, ammunition and provision, they must undertake for many hundred miles, a long, dangerous, and firesome march, by roads the most harassing, and of almost insuperable difficulty, through a wilderness of woods and mountains, without magazines

zines of forage, &c. or any other assistance; through a country liable to ambuscades, and all the strokes of war; through a country whereof the French are possessed of the command, or if through any part where their personal command does not actually exist, yet where Indians, (the most dangerous enemies in such a wilderness) where the Indians, I say, are masters, and possessed of every hold and pass.

To put this matter in a still stronger light, let any one consider, whence arises the danger of marching through a fortified country; whence the danger of a general's leaving behind him any enemies fort or garrison, not taken.—It is that the enemy, who has possession of these, has the command of the whole country, except the sole confined spot where the stronger army is present, can forbid and restrain the inhabitants from furnishing you with such assistance as the country is otherwise capable of affording; can, by sallies from these posts, cut off and intercept all your parties and convoys, all your intelligence; can cut off all communication with your magazines, and your own posts; can perpetually harass and obstruct your march, and return within cover, before any superior party, sent out from the main body, can reach them; you are also always liable to surprize, even within your camp.

A march from any post where the English can *at present* form any army, and collect its stores, ammunition, provisions, carriages, &c. through the country, as at this day above circumstanced,  
is,

is, literally and precisely in its effect, the same thing as the march here described.

While the Indians, whose chief art of war is that of forming ambuscades, who have acquired from practice and art, a peculiar method of secretly traversing the woods and lying concealed in them ;—while the Indians, whose military skill of fighting either single or in parties amidst these woods, renders the situation to them equivalent to fighting under cover ;—while the Indians thus trained, and incredibly expert in the art, can at any time sally out from the holds, fastnesses, lurking places, and ambushes, in which the country abounds, (and all which they know) nay, even from the cover of the woods, and drive in all your small out parties, prevent such foraging as the country will afford, intercept and obstruct your convoys, cut off your communication of intelligence, provisions and succours, and retire again within cover, out of danger of any pursuit, and continue thus constantly to harass and, perhaps, surprize your army : while they can do this, and (believe it) all this they can do and will do, your army is to all intents and purposes, as to the war with the Indians, marching through a country of forts and fortresses. Let any one here, compare this state of the case with the cause and reasons of the failure of the several military expeditions on this continent, and its truth will be still more evinced.

As then no general would think of making a campaign in any country, to reach which, he must march through an enemy's fortified country,  
without

without some *previous measures* to maintain his march and secure his retreat through such ; so here (I repeat it) there are some *previous measures necessary*.

The *first* of these measures is, the settling the police of our alliance with the [Kenunctioni] or Five-nation confederacy, upon a permanent, solid, and effectual basis, so as to restore and re-establish our interest with them.

The *second* is, taking possession of, and fortifying a system of advanced posts, entrepôts, *viz.* magazines whereat to collect stores and provisions, camps from whence (within a reasonable distance and by a practicable way) to make our fortis.

*Thirdly*, The securing the dominion of lake Ontario for the present, and laying a foundation for the like dominion on lakes Erie, Huron, and Michigan.

Let now any one consider the above stating of the form of the country that the English inhabit, and in which the operations of our arms must lie : Let him raise in his mind seriously, the precise idea of the native inhabitants who possess this country, and of the kind of operations by which we are, and shall be attacked, and by which we may be able to defend ourselves : Let any one, I say, by a serious attention to the above facts, form to himself that idea, which an actual and practical knowledge of the country would give him : Let him then be told a melancholy

lancholy truth, that almost all those Indians, whose friendship and alliance were once our best and securest barrier, are now by the French debauched and alienated from us, nay even turned against us, and become the servile instruments of the French robberies, massacres, and treacherous incroachments : Let then his eye be turned upon the state of our back inhabitants, settled in a vague, unconnected, defenceless manner, up to the mountains, to the very mouth of the dens of these savages.—Any one attentively considering the above facts, will see the English colonies in not only a weak defenceless state, but exposed to, and almost at the mercy of a very powerful enemy : Considering this, and the above facts, he would see how superficial, wild, and false an idea of the service that is, which would create a barrier by a line of forts ; a barrier that might as well pretend to cut off the bears, wolves, and foxes from coming within it, as the Indians ; a barrier that would have no more effect than so many scarecrows, unless you could actually build another Chinese wall, and so another, still advancing your wall-fence, as you advanced your settlements ; a barrier that would take more troops to man it, than the country inclosed within it would take people to cultivate it ; a line of 13 or 14 hundred miles, that is at last no line at all ; he would, I say, see this measure not only impracticable, but ineffectual : Nay, were it practicable, and could it take effect, yet the insupportable expence of it, would render it impossible to be engaged in. Any one reasoning on the ideas as above stated, and knowing them to be what they really are, *facts*, would turn his thoughts



thoughts on those objects which experience, fact, and reason point out to be one part of our barrier: Namely, a real and stable alliance with the Indians, formed on such articles as should give us the same kind of possession and command in the Indian country, the same influence in Indian affairs, as the French have. And,

*First*, As to that part of our barrier, and the service which is connected with, and depends on our alliance and interest with the Kenunctioni, the confederacy of the Five nations, I can only repeat what I have said formerly on this subject.

“ The original natural form under which the Indian country lay being that of a forest, stocked not with sheep, or oxen, or horses, not with beasts of labour and domestic animals, but only with wild beasts and game, all that the country afforded for food or raiment must be hunted for: The Indians, therefore, would constantly be, as they were in fact, not land-workers, but hunters, not settlers, but wanderers; they would therefore, consequently never have, as in fact they never had, any idea of property in land; they would consequently never have, as in fact they never had, any one common fixed interest, any one communion of rights and actions, one civil union, and consequently not any government; they know no such thing as an administrative or executive power, properly so called. They allow the authority of advice, a kind of legislative authority, but there is no civil coercion; they never had any one collective, actuating power of

whole, nor any magistrate or magistrates to execute such power.

But the country now appearing under a very different form, and they, the Indians, being under very different circumstances, arising from trade, treaties and war, begin to feel rather than see, to find by experience rather than reason, the necessity of a civil union of power and action ; and that these circumstances have in fact, for many years been formed, and have at length formed to them such a collective power : These people are precisely in that point of circumstances, where a community, that was before only a community of society, is becoming that of government.

In all their actions, therefore, of late years, whether of treaty or war, they have recurred to *some agent* to actuate this power : They are not only become capable of such a general leading, but their circumstances require it. The circumstances with which they are connected, had formed them into a state, but from the circumstances of the society under which they live, they can never have amongst themselves a *stateholder* ; their circumstances require and look out for some such ; some such they must have, and if we do not find such for them, the French will, and are, actually attempting it. Further, as they know not, nor acknowledge any leading power, but that of authority, there can be no nominal, visible appointment of such leader ; they will never appoint such within themselves, nor will they ever submit to any one appointed from without. This was the mistake of the governor of Canada, which

which had like to have lost him all the Cachnugas two years ago.

Therefore such person or persons only, as can acquire, or actually are, in possession of this leading power, this authority with them, can be *this agent, this leader, this STATEHOLDER.*

For this manager, this stateholder, the government hath appointed Sir William Johnson; a person not only the proper one, but precisely the very and only person that the above circumstances and nature of things pointed out; the person whose knowledge of Indians, whose influence, by the opinion the Indians have of him, whose very uncommon zeal for the interest of his country, whose integrity and bravery, will, by such measures as the Indians can really and indeed trust in, if properly supported, restore this branch of our affairs to its salutary effect.

He has, in his papers communicated by me, mentioned every thing necessary, as to the management of this Indian administration: I cannot but add, as a collateral measure, that would strengthen and finally confirm such our interest amongst the Indians, the making little settlements at Oswego, Niarondaquat, and Niagara, and at our other forts, by leave of the Indians.

*Secondly,* We should then, according to good faith and truth, leave the Indians in full and free possession of their dwelling country and hunting grounds, which the English have, in the most solemn manner, confirmed to them by treaty, and

of which, by the same treaty, we have undertaken the protection: We should guaranty and protect such to them, to their use, and also all their hunting-grounds.—This part of the general scheme also, is in some degree carried into execution, by the instructions given by general Braddock to general Johnson, for his direction in his late treaty with the Indians; which instructions were, at the desire of general Braddock and governor Shirley, drawn up by your memorialist, having been first proposed by him. This measure will be absolutely necessary to preserve these Indians to our alliance, as may be seen in almost every treaty held with them since the first surrender of those lands; it is also necessary to support ourselves against the western French Indians: This proposed measure will be so far from being an impediment or hurt to our interest, that the greatest advantages may be made of it, both in the means towards executing the general plan, and in the final execution of it. The uses that may be made of this measure towards the executing of this plan, are, That while we are undertaking the protection of the Indian country and hunting grounds, we are actually becoming possessed of the command of the country. Of which, in the whole, when we are possessed of the command and protection (by means of a very few forts necessary to be erected, which I do not here mention) upon which, in part, according to the proposed colonies and settlements, when we are settled, the Indians will be preserved and protected to their satisfaction, and yet cannot move to war, nor even to hunt, nor subsist, but as they maintain their alliance with the English;  
and

and yet in conjunction with us, their whole force by these means being become infinitely greater, may be directed at any time into the heart of the enemy's country.

*Thirdly*, As to the administration of \* Indian affairs to the southward, the first step necessary to be taken is, that there be an absolute stop put to all provincial administration; that there be no more agents, commissaries, or interpreters, appointed by, and acting under the private orders of a particular province or proprietories, from whence arises interferences and confusion, and opposition in our Indian affairs, always to the obstructing, often to the utter ruin, of the British general interest.

Instead of these, there should be one only principal commissary (who understands the language and interest, and is acquainted with the people of that nation) appointed severally to each

\* These Indians are the Catawbaes, Cherokees, Chickasaws, and Creeks. The Creeks are in part debauched and alienated from us by the French, and attend the French treaties constantly at the Mobile, especially the Alibamôus, Cowëtaes, Talapôuches, and Abekaes, and are in great measure held under subjection by the French forts at Alibamôus, and Tombeckbâ.

The Chickasaws are greatly weakened, and almost ruined by the intrigues of the French within them, and by the wars with the Chactaws, and other French Indians, being unsupported by us.

The Cherokees and Catawbaes, but ill supported by us, are constantly harassed and warred upon by the Five Nations, at the instance of the French influence among that people.



nation : This person should have under him several store-keepers, and smiths.

All these principal commissaries should be subordinate to a one general agent or superintendent \*, who should be under the orders of the commander in chief only,—acting by his orders and instructions, form'd on a *one general idea* of the English and Indian interest, of our alliance, and of the measures to be constantly and uniformly pursued.

As the being supplied with European goods, is to the Indians the first essential interest of their politicks, is the sole and actual object of their alliance with us, and the only real and permanent motive of their attachment to us ; and as, according to the custom of these people, all public transactions are executed by exchange of presents, all public friendship preserved and animated by public hospitality and liberality, the first and fundamental object of the English measures should be to provide for these, in a regular and sufficient manner. The being able to do this, is our peculiar advantage and superiority over the French in these affairs ; their measures are perpetually impeded and distressed, through their being unable to do this ; it is the only difficulty that they have not surmounted, and cannot surmount ; it is this that makes our alliance, if we did conduct it as we ought, the true and natural interest, the true and natural politicks of the Indians.

\* *N. B.* There has been one since appointed, Mr. Stewart, a very active, intelligent, and able man.

There

There ought therefore to be concluded with these southern nations, a general alliance of friendship and mutual defence and assistance, founded on the British general interest, not any provincial private one, upon a one general, uniform plan: The *1st* article of which should be, To do justice to all their claims, to redress all their wrongs.

*2dly*, To maintain with them all public hospitality and friendship, by public, annual, and occasional presents, by entertaining them, and by all other usual assistance, to establish a fair and just trade with them, and settle stores within their countries, or wherever is most convenient for them, with a constant supply of goods at a settled and cheaper rate than the French do supply them.

*3dly*, Mutually to assist each other against all attempts of the French or their Indians, or any hostile attempt whatsoever upon either, constantly and faithfully to give all intelligence to each other, to mend their guns when they have occasion to go to war, to supply them at such times with ammunition, and always to send some of our people along with them if they require it, except against Indians in alliance with the English; and whenever the English call upon them, to go out with them to war, that the English supply such as want them, with arms, and *all* with provisions and ammunition, and defend and maintain their wives and children in the mean time.

This being done, a fund capable of answering the above engagements, and of constantly and faithfully executing them, and also capable of supporting an administration of Indian affairs, that may work effectually to the preserving and maintaining the British interest in such measures, should be settled on a general and permanent foundation ; which may be as follows :

That the several colonies who have hitherto constantly raised monies for Indian affairs, as a private provincial service, should for the future appropriate such monies to this general fund.

That such colonies as have never raised any monies for these services, should, for the future, raise and appropriate to this fund, such sums under a quota, in proportion to the benefit received, or the harm avoided, by the barrier arising from this general alliance and administration of Indian affairs ; and it becomes worthy of consideration, whether the islands in the West Indies, their interest being inseparably connected with that of the continent, should not bear a certain proportion of taxes towards the charge of the war.

Matters within ourselves being thus prepared and provided for :

The first step of our measure in this branch should be, establishing, by the advice of people of the best authorities, and most knowledge of the affairs of each nation respectively, at proper places, general magazines for this service, at the most convenient entrepôts between *marine and in-*  
*land*

*land navigation* of carriage, whence lesser stores, respectively subordinate to these, might be best supplied within the Indian countries, or where is most convenient for the Indians: As for instance, one at Schenectady, or rather at Mount Johnson; —one either at William's ferry on the Potomac, or at Fort Cumberland on Will's creek; —one other somewhere on the Roanoak, or James river; —one other at fort Augusta, on the Savannah.

From these general magazines, the several national or tribe-stores should be constantly supplied: These stores should be also public truck-houses, and the store keeper be also a public truck master: These to be fixed in each particular nation, in such places, and in such number as hath been usual, or will be best for the good of the service, at each of which there should also be a smith. The commissary appointed to the affairs of each nation, to command and superintend all the store keepers, truck masters, smiths, and all the stores, and to be constantly circuiting through these, living always at some one of them, and attending respectively at any of them, wheresoever he is commanded by the general agent, or the good of the service requires: Also at all times (unless in matters of a more public general import, when the general agent is to attend) to negotiate and transact all matters of business which such nation may have to do with any other, or with any colony, and to interpret between the Indians of the nation he is appointed commissary to; and in general, within the powers of his instructions, to do all those matters and things as have

have usually been done by provincial agents or interpreters; that the store keepers and smiths do keep constant journals, and make report to the commissary; that the commissaries keep a regular journal of these reports, and of their own transactions, and report to the general agent, and he likewise to keep a journal and record, and report to the commander in chief.

The order then of the public presents, the public hospitality and liberality being settled, according to the nature of those Indians and our alliance with them:

The method and laws of the trade with them being also settled:

The next step to be observed, I take entirely from the French; and it is a measure, according to my idea, absolutely necessary. Observing the want of subordination among the Indians, the French make a number of sachems, to whom they give medals, and appoint them to preside as chiefs, leaders, counsellors, speakers, &c. some over eight, some over ten villages, and so on as their influence extends; being easily, by presents and money, possessed of these medal-chiefs, they thus easily acquire a more uniform and stable management of their Indians, than the Indians even know of amongst themselves.

Let it be a standing instruction, faithfully in all and every matter, to execute and fulfil, according to the true spirit and intent, the above treaty and alliance, both as to the true interest of  
the



the Indians, and as to the forming their alliance into a firm barrier against the French, and enemy Indians.

The several people employed in Indian affairs to have constantly in view, the scheme of *uniting these several nations into a confederacy* like that of the Five Nations. In order to this, that there be found out and fixed upon some one place in the back country, whereat the general agent should hold all his general treaties and parlies with these Indians, as the French do at the Mobile; which place, upon the success of this scheme, to be the council place,—as Onondaga is to the Five Nations. Let any one consider how a little republick, formed by the Welinis on the river Ouäbasch, by some free and independent Indians, did greatly embarrass, and had well nigh ruined the French affairs there.

This third branch (according to my idea of our barrier) being thus or in some such way provided for and administred.

The fourth, is, that of a *system of magazines and fortified camps* as entrepôts, whereat either to collect for defence, or from whence, within a reasonable distance and by a practicable way, to make our fortis. This branch is in part provided for; for by removing and advancing these stores, and at length, when a proper place is found to fix them on that would defend and command the country, getting leave to fortify them, and so erect them into forts, the Indians are defended, are at the same time held within proper

proper terms, and we have within a friends country, advanced posts or entrepôts,—that would answer all the purposes of defensive or offensive operations against the enemy; and all that could be in this place said on that head, I have very minutely entered into in that part, where I explain the nature and state of the service, as arising from the nature and state of the country and its inhabitants. I will only add their opinion of one post, which we once had, and of another that they feared we were about to make.

Mr. Vaudreuil, governor of Canada, in his letter to the court, May 10, 1744, mentioning the leave which the English had got to build a fortified trading house at Ockfusques, amongst the Creeks, says, “ If the measure of which this might be a foundation, should be properly carried into execution, it would oblige the French to retire from their fort of Alibamôus down to the Mobile.”

And again in another letter, September 17, 1744, he mentions this store-house having opened a traffick with the Chaſtaws,—yet this the English abandoned; and the French have now a fort on each main branch of the river Mobile; one at Tombechbé, and fort Toulouse at Alibamôus.

In another letter of November, 1748, he says, it would be very easy for the English, by means of the river Ohio, to form an entrepôt at Prudhomme to serve them as a retreat, having the nations of the Shawoânaes, Cherokees, and Chickasaws, on their back to support them. From this  
entre-

entrepôt, it would not be difficult for them to penetrate to the Ackansas, Panis, Osâges, Padouces, and Misouris, and all the other nations of that country, if the posts and settlements of the Illinois were broke up, as they would certainly be, did the English settle and fortify at Prudehomme; not only the inhabitants of the Illinois would be lost to us, but also the inhabitants near New Orleans, would be so greatly distressed for the want of the succours and provisions of this country, the granary to it, by loss of the benefit of the trade with that post, it would be difficult for them to subsist, it would be impossible to maintain the expence they must live at without it, and they must be obliged to abandon the colony: But should not matters be so bad as this, yet, were the post of the Illinois taken away, the colony would not be able to extend itself at furthest, beyond the post of the Natches, without a very strong garrison at the post of the Ackansas, and at best that post would be too low to cover the hunting country.

When such forts are erected, the commanding officer at each fort should be a kind of comptroller on the commissary or store keepers for that division, and should be furnished with provisions and necessary stores to make presents to, and to entertain the Indians when they come to him, and to supply their necessities: He should, for this reason, have a right to make an order on the magazine of his division for this purpose.

*Fifthly*, In other parts of our frontier, that are not the immediate residence and country of Indians, some other species of barrier should be  
thought

thought of, of which nothing can be more effectual than a barrier colony ; but even this cannot be carried, as is hereafter explained, into execution and effect, without this previous measure of a system of entrepôts in the country between us and the enemy. *The nature of this system*, must depend on the nature of the ground, which can only be determined by a particular view, and will then immediately be best known to military men ; but all mankind must know that no body of men, whether as an army, or as an emigration of colonists, can march from one country to another, through an inhospitable wilderness, without magazines, nor with any safety without posts, communicating amongst each other by practicable roads, to which to retire in case of accidents, repulse, or delay.

It is a fact which experience evinces the truth of, that we have always been able to outsettle the French, and have drove the Indians out of the country more by settling than fighting ; and that wherever our settlements have been wisely and completely made, the French neither by themselves, nor their dogs of war, the Indians, have been able to remove us. It is upon this fact that I found the propriety of the measure of settling a barrier colony in those parts of our frontiers, *which are not the immediate residence or hunting grounds of our Indians*. This is a measure that will be effectual, and will not only in time pay its expence, but make as great returns as any of our present colonies do ; will give a strength and unity to our dominions in North America, and give us *possession* of the country as

well as *settlements* in it. But above all this, the state and circumstances of our settlements renders such a measure not only proper and eligible, but absolutely necessary. The English settlements, as they are at present circumstanced, are absolutely at a stand; they are settled up to the mountains, and in the mountains there is no where together, land sufficient for a settlement large enough to subsist by itself and to defend itself, and preserve a communication with the present settlements.

If the English would advance one step further, or cover themselves where they are, it must be at once, by one large step over the mountains, with a numerous and military colony. Where such should be settled, I do not now take upon me to say; at present I shall only point out the measure and the nature of it, by inserting two schemes, one of Mr. Franklin's; the other of your memorialist; and if I might indulge myself with scheming, I should imagine that two such were sufficient, and only requisite and proper; one at the back of Virginia, filling up the vacant space between the Five Nations and southern confederacy, and connecting, into a one system, our barrier: The other somewhere in the Cohas on Connecticut river, or wherever best adapted to cover the four New England colonies. These, with the little settlements mentioned above, in the Indian countries, compleats my idea of this branch.

*The dominion then of the lakes* being maintained by a *British navy* of armed vessels, suited to the nature of the service, according to a plan proposed



posed by your memorialist, in June 1754, to the commissioners met at Albany ; which part of the general frontier is, according to that proposal, by order from England, and at the expence of the crown, now carried into execution, compleats the whole of my idea of this frontier.

These matters being thus proposed, I do not at all enter into that point of their execution which is the duty of the military, as it is a matter in which the judgment of a civil man may not have its weight, nor into the manner of removing the French from their encroachments ; yet I cannot but in general observe, that as the present military object of his Majesty's service in this country, is either to erect forts, or to demolish those erected by the French on his Majesty's lands ; and as the way to all such lies through woods and wildernesses, there is a proper sphere of action peculiar to each, both for his Majesty's regular troops, and for the provincial troops of the country. The provincial forces of these countries, as irregulars or light troops, can, the best of any forces in the world, escort his Majesty's troops through these woods, to where their proper scene of action lies ; they can also in the same manner hand up all their convoys, and would, I am persuaded, should any occasion call for their service, act with bravery and spirit : They are also fit for what may be properly called an expedition, some excursion *a la brusque* of ten or twenty days continuance : They should therefore be employed either as a covering army, or kept with the regular army, in companies of light infantry, for escorts, scouring and scouting parties ;

ties ; while the regular troops, as a main body, marching by these means without being harrassed, sustain them ; while his Majesty's troops alone are fit for the various duties and services of a continued regular campaign, and for the fatigues and perseverance, and skill, necessary in a siege.

I must also observe, secondly, that this is not proposed as a scheme to be executed all at once ; but, as a general plan of operations, to be preserved and attended to in the whole ; to which every part of our measures, as they shall arise into action and come upon the field, are to be referred ; to which, in all seasons and at all occasions, as from time to time such shall offer or serve, our measures must be directed ; and to which every individual, and every part, must conspire and co operate to form a whole.

## SECTION II.

THE ideas of the service contained in the paper above, lead by fair consequence to the following proposition, that after the English had been repeatedly disappointed in their attempts to penetrate the country, by the way of Crown-point and lake Champlain, and had lost Oswego and the command of the lake Ontario, considering the reason there was also to expect the defection of the Indians in consequence of it, there remained no other alternative, but either to make peace, *or to change the object of the war*, by making a direct attack, up the river St. Lawrence, upon Quebec itself, urged to a total reduction of Canada. The writer of these papers came over to England in the latter end of the year 1756, to propose and state these measures, nearly in the same form as was afterwards repeated by the paper that follows, particularly marking the necessity of two fleets, and two armies: One army destined for the attack; the other under orders to invest Canada, by taking post somewhere between Albany and Montreal, so as to cover the English colonies: One fleet to escort and convoy the army up the river St. Lawrence; and the other to cover and protect the sea-line of the colonies. The object was adopted. Why nothing was done in the year 1757, and why no more was done in the year

year 1758, than the taking of Louÿsbourg, will be explained on a future occasion; the ideas contained in the following paper lead to the rest.—

## IDEA of the SERVICE in AMERICA, for the Year 1759.

BOSTON, December 5th, 1758.

**I**F the point disputed between us and the French, be determinately and precisely understood, the manner of conducting it may be soon fixed: If we are still, as we were at the first breaking out of the war, disputing about a boundary line, and for the possession of such posts, communications and passes, as may be a *foundation* to our possessions of a future dominion in America, we are still engaged in a petty skirmishing war: from the state of which it was always plain, and experience now proves it, that we shall ever be inferior, and beaten by the French; for the French have long ago, by a continued system of measures, been taking possession of such posts as hath given them that foundation: They have already established that which we must fight to establish, inch by inch.

If we have changed the point, and brought it to its true issue, its natural crisis, whether we, as provinces of Great Britain, or Canada as the province of France, shall be superior in America; then the service to be done, is a *general invasion*

of Canada, in conjunction with the European troops and fleet ; then is our natural strength employed, and we must consequently be as naturally superior.

This being fixed, the next point is, where the real attack must be made : the same reasons that show the necessity of such a general attack, show that it will *never effectually be carried on over land* ; for, if it could, Canada might as effectually be destroyed, by the petty skirmishing war, for posts, passes, &c. as by a general invasion. But experience has now shown, what reason might have seen some time ago, that as the state of the service is circumstanced between us and the French, that cannot be ; the possession which the enemy has of the posts of strength, the carrying places, passes, water communications, and roads, by forts, redoubts, and their Indians, would render the passage to Canada by land, the work of a campaign, even with success ; but finally also, the success doubtful. The road to Quebec, up St. Lawrence river, we possess by *the superiority of our marine navigation*. There is neither danger nor difficulty, nor do I see how there can be any opposition, to hinder the fleet getting up to the Isle of Orleans ; and a superior army in possession of that, may, by proper measures, command the rest of the way to Quebec. If our army can once set down before Quebec, it must take it : If Quebec be taken, the capitulation may at least strip Canada of all the regulars, after which the inhabitants might possibly be induced to surrender.



If this attack be determined, the fleet of transports will be escorted up the river by the frigates, bombs, and other small vessels of war: *But while our forces are all up the river, a very strong Squadron seems necessary to cover the maritime parts of our own colonies.*

I am told, that many French vessels proceed early in Spring, to the bay of Gaspee, before the river St. Lawrence is navigable, and lie there till the river breaks up, then slip up without danger, when for some time it would be almost impossible to cross the gulf; for as soon as the ice breaks up in the river, it is presently clear; but the ice embayed in the gulf, swims about for a long time, and renders the navigation of that gulf extremely dangerous, long after the river may be navigated with safety. If this fact be true, it seems necessary, that two or three of the ships of war should proceed to Gaspee, before the river St. Lawrence breaks up, in order to prevent any succours being sent up the river in Spring.

But although this attempt on Quebec, by way of St. Lawrence river, may be the only real, and will be the only effectual attack on Canada; yet one other, if not two false attacks will be necessary, one by way of lake Champlain; the other by way of lake Ontario. That by way of lake Champlain may, as far as Crown-point, be offensive, and should then change into a defensive measure, by taking strong post there, with a garrison which will effectually check the enemy at that gate of the country, and from whence

continual scouting parties, to harrafs the settlements, and beat up the quarters of the enemy, should be sent down the lake. As there are now so many regiments at Albany, Skenectady, fort Edward, and the posts on the river, the taking fort Carillon, at Tieonderôga, and of consequence fort St. Frederick, at Crown-point, might be effected with these, together with such provincials as shall be thought necessary, (if not in winter) yet, before the time for embarking for St. Lawrence river approaches: and this time appears the more proper, as it may possibly be before the French can sufficiently relieve it. The reason that makes me think that this should be attempted is, that the possession of this post is an effectual investing of Canada in that quarter: The reason why I think no more should be attempted is, that it would prove unsuccessful, and that all the labour and expence that is employed in the attempt, is lost as soon as it is given over.

As we have now so good an entrepôt towards lake Ontario, as the fort at the Oneida carrying place, it is now in our power to attempt acting on that lake; the want of this rendered all attempts there before, abortive and unsupportable. An appearance of an attack on Canada by that way, must greatly alarm the enemy at Montreal; and, though I do verily believe we shall never succeed to make an effectual irruption that way, until Quebec be taken, yet as whatever shall be done on that lake towards such an attempt, viz taking post at some part on the lake, and building vessels, will have a collateral effect; even supposing the first to prove abortive, that will prove a  
most

most essential point of service, namely, the gaining dominion of the navigation of the lake. So that should nothing else be done, yet what is done, and what is spent, will not be thrown away; but remain a chief corner-stone in the foundation of the British dominion in America:—Besides, if we remain, during the campaign, superior in the lake, the enemies communication with their southern posts is cut off, their connection with the Indians of the Five Nations interrupted; and we may, in the course of chances, possibly take Niagara. This amphibious kind of service seems adapted to the provincials, especially those of New York and Rhode Island, accustomed to privateering and batteaving: but these should be supported by good garrisons of regulars, in such posts as may be found necessary to be taken at the entrepôt on the Oneida carrying place, and at the port it shall be found necessary to possess on the lake.

As to the number of regular troops necessary for the attack on Quebec, I have not presumed to speak, for I am no judge; but a number of provincials will certainly be necessary, and these such as are used to the water, and marine navigation, for such will be of the most essential service in the passage of the army from the lower end of the Isle of Orleans to Quebec, where most of the difficulty and danger will lie. Now for this service, none can be so well adapted as the people of the province of Massachusetts Bay, as they are all, in the southern parts, whalers and fishermen. After the troops are landed near Quebec, numbers will be wanted, such as are used to carrying heavy lumber and timber, &c. through the woods. Now for this  
 ser-

service, none can be so well adapted as the inhabitants of New Hampshire, and the county of York, in the province of Massachusetts Bay, who are so perfectly accustomed to the masting service, that is, fetching the great masts down from the woods; besides, the people of Massachusetts in the counties of Hampshire, Worcester and York, are the best wood hunters in America; and would therefore, disposed in proper outposts, be the best adapted to the keeping the camp before Quebec quiet from the enemies partizans and Indians, or perhaps in breaking up the enemies settlements in the country, while the regulars were taking their towns. For this purpose also, I should think, if about a hundred thorough wood hunters, properly officered, could be obtained in the county of York, a scout of such might make an attempt upon the settlements by way of Chaudier river. Such a scout, to the purposes of alarming and keeping the enemy in abeyance there, or perhaps breaking up the settlements, is practicable; and, I think, with early notice, such a scout may be obtained.

These are the services our people are fitted for; and therefore, as far as relate to the people of the province his Majesty has committed to my care, I can be positive, that if his Majesty's General would have a real and effectual service from them, they must be employed in such. Take those who live inland and carry them to sea, or those who have lived by the sea, and march them through the woods, they will be useless and sickly. Employ each in their proper element; let those who are naturally connected with Hudson's river,  
and

and acquainted with inland navigation, be employed up in the back country, and lakes to the westward; and those who border on the sea, and are used to marine navigation, be employed in the service that goes by sea to the eastward; and then for every ten men on paper, there will be ten men's real service.

I have in this paper confined my idea to the invasion of Canada, and the attacks on that country, and so have said nothing of that very necessary service, the erecting a fort at Penobscot river, which on different occasions I have before repeatedly expressed.

I have confined my idea to Canada, and have therefore said nothing of fort Du Quesne; but if I had extended my idea to that part, I should have endeavoured to consider how far, or not, it might be practicable to break up the enemies settlements on the Ohio, and the Illinois country, founded on this opinion of Mr. Vaudreuil himself, in his letter to his court, when governor of Louisiana, November 1748.—“ It would be very easy for  
 “ the English, by means of the river Ohio, to  
 “ form an entrepôt at Prudhomme, to serve  
 “ them as a retreat, having the nations of the  
 “ Shawöanese, Cherokees and Chickasaws on their  
 “ back and to support them. From this entre-  
 “ pôt it would not be difficult to penetrate to the  
 “ Akanfaes, Panis, Osagae, Padouces, and  
 “ Missouris, and all the Ohio nations of that  
 “ country, if the posts and settlements of the  
 “ Illinois were broken up, as they would cer-  
 “ tainly be, did the English settle and fortify  
 “ at



“ at Prudhomme; not only the inhabitants of  
 “ the Illinois would be lost to us, but also the  
 “ inhabitants near New Orleans would be so  
 “ greatly distressed for want of the succours and  
 “ provisions of this country, *the granary to it*,  
 “ by the loss of the trade with that post, that it  
 “ would be difficult for them to subsist, it would  
 “ be impossible to maintain the expence they  
 “ must live at without it, and they must be  
 “ obliged to abandon the colony: But should  
 “ not matters be so bad as this, yet, were the  
 “ posts of the Illinois taken away, the colony  
 “ would not be able to extend itself at furthest  
 “ beyond the post of the Natches, without a  
 “ very strong garrison at the post of Akanfaes,  
 “ and at best that post would be too low to *cover*  
 “ *the hunting ground.*”

I should have extended my idea to an attempt  
 by a West India Squadron, with troops raised in  
 the islands on Mobile, for nothing would more  
 embarrass the enemy's Indian affairs in Louisiana,  
 than the taking this place, the grand rendezvous  
 at all their treaties. For they support a garrison  
 here; amongst other reasons, for this also, (as  
 Mr. Vaudreuil, in one of his letters to the court,  
 says) “ to influence the Indians, as there are at our  
 “ meetings and treaties, held here annually with  
 “ the Indians, sometimes 2, sometimes 3,000  
 “ Indians present.”

I should also have recommended the taking  
 post at Ockfusqué amongst the Creeks, because,  
 says Mr. Vaudreuil, “ If the measures of which  
 “ this might be a foundation, should be properly

“ carried into execution by the English, it would  
“ oblige the French to retire from their fort at  
“ Alibamôus down to the Mobile.”

To the Right Honourable  
Mr. Secretary Pitt,

The reader is here desired to refer to the events  
of the year 1759 in America.

Quebec was taken by general Townshend, the  
moment that the army was enabled to set down  
before it, by the greatly hazarded, and gloriously  
successful stroke of general Wolf.

The operations of the army under general  
Amherst, could not, by all the skill and deter-  
mined perseverance of that excellent officer, be  
pushed further than Crown-point, and there be-  
came defensive by fortifying that point.

The operations up the Mohawks river, and  
on lake Ontario, were carried just to that effect  
which opened the way for the next campaign,  
1760, when general Amherst went that way to  
take possession of Canada.

Amidst these objects, I mention the taking pos-  
session of the Penobscot country, and the building  
a fort there by the governor of the Massachusetts  
province, merely as it was proposed in the paper  
above, and as the proposal and execution of it  
was approved by the King and his ministers at  
that time.

The

The whole fleet was taken up the river St. Lawrence, where, as general Wolf expressly declares, it was a part of the force least adapted to the object: The sea-line of the colonies was left uncovered and open. If the French had had sense enough to have sent two ships of the line, with a frigate or two, and one or two bomb-ketches, they might have burnt Halifax, Boston, New York, or Philadelphia, without interruption; or even if such measure had not been carried to that degree of success, they might have raised such an alarm as should have broken up some of our active, offensive operations, in order to come to the defence of this sea-line; and, perhaps, thus the whole of the operations of 1759, have been disconcerted and defeated. To enquire why this was done, would at this time become a mere criticism, for as, by good luck, no such accident happened, it is right that success should justify every measure.

To give reasons why nothing was attempted towards the quarters of Louisiana at that time, will be the solution of some future discussion.

F I N I S.

CONSIDERATIONS, &c.

BEING AN

*APPENDIX, SECTION III,*

TO THE

*ADMINISTRATION of the COLONIES.*





# CONSIDERATIONS

ON THE

POINTS lately brought into Question as  
to the PARLIAMENT's Right of  
TAXING the COLONIES,

And of the MEASURES necessary to be  
taken at this CRISIS.

BEING AN

APPENDIX, SECTION III,

TO THE

ADMINISTRATION of the COLONIES.

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# A P P E N D I X.

## S E C T I O N III.

### CONTAINING

*Considerations on the Points lately brought into Question, as to the Parliament's Right of taxing the Colonies, and of the Measures necessary to be taken at this Crisis.*

AS in the Dedication of the *Administration of the Colonies*, I have so strongly pledged my opinion for the principles, spirit, and temper of the Colonists, and have represented that spirit and principle to be so entirely contrary to those dispositions which seem to animate their present conduct, I cannot but think some apology either for myself or them necessary.

And first, as to their attachment to the mother country and to the government and constitution thereof, I will venture to repeat my affirmation, and will appeal to

[E] every

every man of interest or business in those countries for the truth of it, That for an hundred years to this time there has not been an American to whom in the genuine feelings of his heart, the interest, welfare, and happiness of Great Britain was not as dear as that of his own colony, having no other idea but that they were always one and the same: I do not believe that the idea of Great Britain ever heretofore arose in an American breast without the idea of its being HOME. If of late they have learned to call the British produce and manufactures foreign and Britons foreigners, it is not from an American idea that they have learnt it, it is from an idea that is foreign also.

Next, as to the propositions lately taken up and brought forward into question, Whether the supreme legislature of Great Britain should or should not agreeably to the actual present state of the British constitution, exercise the power of laying taxes on the Colonies: And whether consistent with the rights of Englishmen and the supposed spirit of the English constitution, the Colonists can be taxed unless by their own respective legislatures, or unless the Colonies have by their proper representatives a share in the legislature of Great Britain. I will affirm that the reasoning which  
states

states these propositions, as matters under question and doubt, never did or could arise from the principles of an American politician. The fundamental maxim of the laws of those countries is, first, That the common law of England together with such statutes or acts of Parliaments (the ecclesiastical laws excepted) as were passed before the Colonies had a legislature of their own, Secondly, That their own laws together with such acts of Parliament as by a special clause are extended to America since that time, *are the laws of that country*. The jurisdiction and power of every court established in that country; the duty of every civil officer; the process of every transaction in law and business there, is regulated on this principle. There is not a man of business in the Colonies that ever held an office who does not know this, and who hath not always acted on this principle: There never was a man that ever acquired a lead or interest in the politics of those free countries, who did not defend this principle as the palladium of their liberty, that they were to be ruled and governed only by acts of Parliament, together with their own laws not contrary to the laws of Great Britain: And as a friend to the Colonies I would venture to add, That it is under this principle that every act of Parliament passed since the esta-



blishment of the Colonies, *which respects the general police of the realm, and the rights and liberties of the subject of the realm* is, without the intervention of their own consent by their respective legislatures or representatives, considered, and, I think I may venture to say, adopted as part of the law and constitution of those countries. It is under this principle, without the intervention of their own consent, that they may best and most safely claim all the rights and privileges of Englishmen confirmed in the Bill of Rights. It is under this principle that I should hope, could an American ever have need to claim it, that they may best claim those benefits and privileges, which by the seventh of William the Third, are declared and provided to the subject in case of accusation of treason; even though those acts stand enacted without the intervention of their consent, without being by any special clause extended to America, otherwise than as extending *by power of the supreme legislature to every subject within the realm*. But should the Colonists doubt the power of the supreme legislature in these cases, I believe it never was yet doubted in that country but that when an act of Parliament was by a special clause extended to America, it had its full force there, nor was ever yet any principle found out, by which to distinguish  
 the

the exercise of the power of Parliament in making laws which respected the property, the rights, liberties, and lives of the subjects there, from a power to make laws for that country which should demand, by ways and means, as to that Parliament seemed meet, aids by taxes towards the maintenance and support of government.

I have heard and read many arguments advanced on this late occasion, and to give fair scope to them I will examine the principle from which they must all derive, and on which they must all depend, namely, the right which every Englishman hath to a share in the (*commune concilium regni*) Common-council of the realm, as settled by Magna Charta. That we may not wander and be bewildered in general theories, it will be necessary to fix on the actual state of the English constitution as our pole star. However just in theory, and however proper in practice, where that can be done, an equal representation of every individual Freeman in the Common-council may be; and however happy it is for the Colonies that they do actually possess such within their respective states, yet it is not the fact in the English constitution. Freeholders, Burghers, and Citizens, according to their ancient rights, are alone the constituents of repre-

sentatives, are alone, according to these late arguments, the persons actually represented; and yet these are not one third of the people of England, one third of those Englishmen in England who have the same claim by birthright to all the rights and privileges of an Englishman, which the Colonists have or can claim, either under the general rights of the constitution, or by the 13th Geo. II. as lately quoted by them.

Article XIV. of Magna Charta declares, that no scutage or aid shall be imposed, except by the Common-council of the realm. And I believe no one will deny, that the King, Lords, and Commons, in assembly met, are that Common-council of the realm, whether that Common-council be or be not constituted according to the theory lately insisted upon.

The same charter, after having declared and confirmed the customs, right, and privileges of the city of London, declares in article XVI. that all cities, boroughs, towns and ports, shall have their customs, rights, and privileges, & *ad habendum commune concilium regni de auxilio assidendo*. Which declaration (apart the fact) may be understood two ways; either that they shall be included within the declaration of right contained in article XIV. of not  
having

having any assessment made upon them but by the Common-council of the realm; or, 2dly, that they also shall have the right of being of the Common-council of the realm. The latter I should the rather take to be the true reasoning, and is, I believe the actual fact. Let us see then how this applies to the case in question. The Colonists, confirmed by the theory of the right and justice of a general equal representation in Common-council, do from this declaration of the charter say, that they ought not to be taxed but by Common-council of the realm; and that any Common-council in which they do not sit by their representatives, is not to them a Common-council (*commune concilium*) so far as respects their rights and privileges, *ad habendum commune concilium regni*: That therefore they must either retain, as by charter granted, the power of taxing themselves, or be admitted to sessions in parliament. This reasoning seems so fair, let us, I say, see how it applies to fact in the course of the English history; and first, as it stands explained even in Magna Charta itself. Upon the declaration and confirmation of these rights as above, in articles, XIV, XV, XVI. The charter proceeds to regulate the manner of issuing the writs for calling together this Common-council of the realm, namely, (article XVII) that the king

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will

will summon archbishops, bishops, abbots, earls, and great barons, that is to say, the house of Lords, by special letters, particularly directed to each lord in parliament. But as to the rest, *who hold of the crown in capite*, (article XVIII) viz. the cities, boroughs, towns, ports, and perhaps also may be herein included the counties, or lesser barons : he shall direct his sheriffs or bailiffs to summon and return them : those only who held *in capite*, or by their *antiquas libertates & liberas consuetudines* had then the right, are summoned to the Common-council, according to the fundamental principles of the feudal constitution then existing. However, through the various changes which the constitution of the government hath undergone since that time to the revolution, that species of representation by Lords and Commons (though perhaps not at that time sitting in separate houses) consisting as above, of archbishops, &c. in their own persons ; and of the representative of cities, &c. returned by the sheriffs or bailiffs, hath been confirmed to be, with the King assembled, the true and real Common-council of the realm. Those towns, corporations, counties, &c. which were not included according to their *antiquas libertates & liberas consuetudines* in this *commune concilium*, but have since acceded to the realm, or encreased within the  
realm



realm to a degree of power and interest, so as to be equally concerned to have knights or burgesſes in the high court of Parliament, of their own election, to represent them equally as other inhabitants of the realm, have, according to whatever was the form of the constitution at the time, been called to a ſhare in the Common-council of the realm, as were the Welch, the county palatine of Cheſter, and the county palatine of Durham. But until ſo called, they “ were liable to all rates, although they “ were not represented,” as thoſe rates were laid only *per commune concilium regni*.

And it is under this juſt principle and fair reaſoning, that the duties which, by the laws of trade, are ſettled and rated to be paid by the trade of thoſe colonies, ever ſince the year 1673, have never in any one inſtance been refuſed, or the principle by which they were laid upon the colony trade called in queſtion. Nay, the tax laid on the northern colonies by the ſugar act, was ſollicited and obtained by the intervention and deſire of that part of the Colonists who inhabit the ſugar iſlands. Theſe acts have been evaded, but whenever the offender has been convicted, he hath ſuffered the penalties

nalties fixed upon such offence by act of Parliament.

I believe there never was an instance in America that the tax laid by act of Parliament on seamen's wages towards the support of Greenwich-Hospital, was ever refused or disputed.

I do not believe that there ever was an instance when this principle of the supreme Legislature's power to raise monies by taxes throughout the realm of Great-Britain, was ever called in question, either in the assemblies or in the courts of the Colonies; nor did I ever hear of any book, treatise, or even News-paper essay, that ever, until this moment, even moved it as a question of right.

However general this claim of exemption from being taxed by act of Parliament may have become of late; however suddenly this wild plant, forced by an artificial fire, may have sprung up and spread itself, it is neither the natural produce nor growth of America. The Colonists in their sober senses know too well the necessary powers of government; they have too well considered the relation which they, as Colonists, bear to the realm of Great-Britain: their true and real liberties and charter rights are  
dearer

dearer to them than that they should hazard them by grasping after shadows and phantoms. I will therefore abide by what I have said in every part of my work, that as they understand thoroughly the necessary powers of government on one hand, and as they are zealous for liberty on the other, so were they by affection as well as principle, ever attached to the mother-country and to the government thereof. I speak of them as I knew them, nothing aggravating, nothing extenuating. But there is no answering for the defects of a delirium. I know nothing of the spirit of those who have raised and would direct the storm in the present wild uproar in America, nor do I believe that they themselves know what spirit they are of. Ignorant of the constitution of Great-Britain, and of their own best liberty as derived from it, they have misled the good people of America to disclaim the wisdom and temper of their true friends, to doubt the virtue and zeal of those good citizens who have for so many years by their superior abilities and real patriotism had the charge and conduct of their interests. Frantic, like madmen, they have fallen first upon those who have been hitherto near and dearest to them, and then giddy with the wild outrage they have begun, they have proceeded (I had almost said to take up arms) against

against the authority of that very constitution to which they owe the rights and privileges that they contend for.

They are ignorant of the theory as well as the fact of the British constitution, if they suppose that even the King by any Grant, Charter, or Patent whatsoever can exempt any person, family, or colony, within the realm and dominion of Great Britain, from being liable to be taxed by act of Parliament. They are equally ignorant of the same when they say, That any Colonists, or any person whatsoever, who has neither freehold in a county in Britain, nor tenure as a burgher of some borough, nor freedom in the corporation of some city, has either on one hand a right to send (so far as his voice goes) a deputy to Parliament, or on the other hand a right to refuse any taxes laid on him and his property, as being laid without his consent, or the consent of his representative, as not laid *per commune concilium regni*. All those persons in Great Britain who living in counties have not freeholds, who living in boroughs are no burghers, who living in cities are not freemen of the corporation. All the possessors of property in the public funds, as such, send not their deputies or representatives to Parliament, and yet are taxed without their own consent as much and

and in the same manner as the Colonists are. Will any advocate for the new maxims say, That the inhabitants of the county palatine of Durham were not liable to all payments, rates, and subsidies granted by Parliament, equally with the inhabitants of other counties, until by the 25th of Car. II. they were enabled to send knights and burgheffes to represent them in Parliament. No one who knows, as I said, either the theory or the actual state of the constitution will venture to affirm this; and the very reasoning and express declaration in the preamble of that act of Parliament fixes this principle, *That they were liable to all rates, &c. although they were not represented.* The preamble having first fixed the matter of right in such declaration, the supreme legislature, as the inhabitants were *concerned* [not entitled] to have knights and burgheffes in the High Court of Parliament of their own election, to represent the condition of their country, equally as the inhabitants of other cities and boroughs, proceeds to enact *that they may have such.* If this right had been a fundamental inseparable right of the British subject, the Parliament need not to have made an act to establish it, but would have declared it, and prayed the King that his Majesty's writ might be awarded by the Lord Chancellor or Lord Keeper of the Great Seal of England,



England, and directed to the proper officers for the election of representatives for such county.

If the Colonists were to address themselves to Parliament, praying that they might have representatives of their own election in the High Court of Parliament, on this ground of expediency, namely, "That  
 " they were concerned equally with others  
 " the inhabitants of this kingdom, to have  
 " such to represent the condition of their  
 " country," that would be quite another case, and would become a very serious matter highly worthy the consideration and deliberation of Parliament. If the Colonists did this, why should not also all those parts of Great Britain, which are very unequally if at all represented; why should not the isles of Guernsey and Jersey be represented as well as the isle of Wight; why should not the British possessors of that very important property which lies in the funds, apply also on the same principle for the same privileges; why not the corporation of the East India company, for in this very extensive proportion of British property, such expediency becomes in the same manner well founded, not only in that the proprietors of this property are, as such, equally concerned with others, the landed proprietors, burghers,  
 1 and

and citizens of Great Britain, to have in Parliament persons of their own election to represent their condition, but also as the important interest of this property is equally connected and united with the interest and perhaps existence of the government of Great Britain, as the most important interests of the colonies are. If upon any such application from the Colonies to Parliament, the wisdom of that high court should see the expediency and practicability of this measure, and find the proper means of enacting it into a law, *That for the future the Colonies should send representatives to Parliament*, I see no danger nor inconvenience that could arise to Great Britain; on the contrary such measure would have a tendency throughout the Colonies to extend loyalty towards the crown, and affection towards the mother country, as it extended the spirit and influence of general liberty to that people made, by this communication of it, one body and mass with the people of Great Britain.

Perhaps one caution might be found necessary, that is to guard against forming too powerful connections between the interests of the great trading cities and towns here, (already very powerful) and the interests of these trading Colonies and corporations. I think

think that trade and commerce ought to have its full weight of representation in Parliament, but it is equally necessary that the landed interest should have its full weight and force also. The Colonists in their respective countries have had frequent experience of the effect pointed out in this remark, and have passed laws to restrain it. This matter therefore may be easily provided for by the mode of representation to be established, according to what the wisdom of the Colonists have done in this case, as well as from the number of representatives limited thereby : And if ever the wisdom of Parliament should see proper to take up the consideration of this measure, that mode might be easily pointed out by those who have a practical as well as a general knowledge of the Colonies and their affairs. However visionary this may seem to those who judge by parts, and act by temporary expedients, those truly great ministers who shall ever take up the administration of the Colonies as a system, and shall have a general practical and adequate knowledge of that system, as interwoven in that of the mother country, will, on the contrary, find this measure prudential if not a necessary one, as leading to that great and absolutely necessary measure of uniting the Colonies to Great Britain as parts of the realm, in every degree

degree and mode of communication of its rights and powers. And until some steps are taken which may lead and approach to this system of union, as the interest and power of the Colonies approach to the bearing of a proportion with that of Great Britain, the real interest of Great Britain and her Colonies will continue to be very inadequately and very unhappily administered, while the business of the Colonies shall in the mean time become a faction instead of a constitutional part of the administration.

The center of power, instead of remaining fixed as it now is in Great Britain, will, as the magnitude of power and interest of the Colonies encreases, be drawn out from the island, by the same laws of nature analogous in all cases, by which the center of gravity of the solar system, now near the surface of the sun, would, by an encrease of the quantity of matter in the planets, be drawn out beyond that surface. \* Knowing therefore the laws of nature, shall we like true philosophers follow, where that system leads, to form one general system of dominion by an union of Great Britain and her Colonies, fixing, while it may be so fixed, the common center in Great Britain, or shall we without ever seeing that such center must

\* Vide Administration of the Colonies, page 5, 10.

be formed by an inter-communion of the powers of all the parts which form the dominions of Great Britain, like true modern politicians, and from our own narrow temporary ideas of a local center, labour to keep that center in Great Britain by force against encreasing powers, which will, finally, by an overbalance heave that center itself out of its place? Such measures would be almost as wise as his who standing in a scale should thrust his stick up against the beam to prevent it from descending, while his own weight brought it the faster down.

Having gone thus far, I will speak out my opinion and go further. If the measure here suggested be right, Why should we wait for the application of the Colonies? It appears by some of their resolves, that they see no propriety in their being admitted to sessions in the British legislature, even under the present state of the Colonies; and if from a foretaste, as it were, of their own strength, they should not now apply for it, they never will hereafter; nay, perhaps, even refuse the measure when proposed to them: Why therefore if the measure be conform to the actual state of the British constitution, if it be founded in the actual circumstances of the state of the British dominions, Why do we not require of the Colonies to take their sessions?



feffions? Why do we not oblige them to fend their representatives to the Common Council of the realm, as hath been done in England with regard to towns and boroughs in former times? The Reader will fee that I have given the form of question and inquiry to this paragraph, as it treats of a matter of too high and too interesting a speculation for me to decide upon.

I may poffibly have my own questions re-torted here upon me, that as the fame expediency urges for an equal representation of all interefted parts in England, and alfo for the actual representation of the funds and trading corporations, “ as equally concerned,” Do I hold that the fame meafure fhould be extended to thofe cafes likewise? I fancy nobody will deny either the expediency or the falutary propriety of the firft cafe, were it practicable under the prefent fpirit of politics; nor of the latter cafe, could one be flattered to think the object of thofe interefts as permanent as it is important.

Whether the prefent time, all circumftances and occurrences of the prefent time confidered, be the proper occafion in which to take up the confideration of this meafure, and whether if this communication of right of representation was offered by the mother

country, the Colonists would now accept it, is subject to great doubt. But what step previous to or concomitant with such schemes of politics are necessary, is matter of consideration which requires advice of the most prudent and temperate, as well as the most spirited council which this nation ever had occasion for.

There is a measure which I have long foreseen to be necessary, which I have recommended as such even before this crisis, and which I would hope now to recommend to government, that would in its proper time lead to and lay the foundation of a true, real, and political union of the mother country with its Colonies, by an union of its government, and yet fix and keep the center and throne of that government in England. This measure would, in the mean time, give the Colonies proper and constitutional means of stating their conditions, their grievances, and of proposing regulations for the future, adequate, and equal administration of their interests, and have a direct tendency to fix the power of government, while it quieted the minds of the people. It is a measure that has its precedents in times when the business of the Colonies was not less (if not better) understood than it is at present; but as this has been mentioned to government

ment as proper in this crisis, and as there appears to be a disposition in administration to adopt every thing which on mature deliberation shall be found right and practicable, I forbear all publication that may embarrass and obstruct it.

How to recommend to administration any concessions in government, I am sure I know not, when the Colonies themselves will not even give grounds to government whereupon to take up such, were it inclined. But if the Colonies have lost all temper and prudence, and seem willing, as far as lies in their own power to brave their own ruin; surely, by so much the more, temper and prudence in government here is necessary, as government has in its hands the actual power of ruining them. I will beg to quote a passage out of Sir William Temple's observations upon the United Provinces: "The nobility of the country, and the richest of the people in the cities, though unsatisfied with the government, yet *feeling the effects* and abhorring the rage of popular tumults, as the worst mischief which can befall any state; and encouraged by the arrival of *the King's concessions*, began to unite their counsels and forces with those of the Governors, and to employ themselves both with great vigour and loyalty, for sup-

[F 3] " pressing

“ pressing the late insurrections, that had  
 “ seized upon many, and shaked most of  
 “ the cities of the provinces; in which the  
 “ Prince of Orange and Count Egmont  
 “ were great instruments by *the authority of*  
 “ *their great charges*, (one being Governor  
 “ of Holland and Zealand, and the other of  
 “ Flanders) but more by the general love  
 “ and confidence of the people, until by  
 “ reducing Valenciennes, Maestricht, and  
 “ the Burse *by arms*; the submission of Ant-  
 “ werp and other towns; the defection of  
 “ Count Egmont from the counsels of the  
 “ confederate Lords (as they were called);  
 “ the retreat of the Prince of Orange into  
 “ Germany, and the death of Brederode,  
 “ with the news and preparations of King  
 “ Philip’s sudden journey into the Low  
 “ Countries, as well as the prudence and  
 “ moderation of the Duchess in governing  
 “ all these circumstances, the whole estate  
 “ of the provinces was perfectly restored to  
 “ its former peace, obedience, and, at least,  
 “ appearance of loyalty. King Philip, whe-  
 “ ther never having really decreed his journey  
 “ into Flanders, or diverted by the pacifi-  
 “ cation of the provinces, and the appre-  
 “ hension of the Moors rebelling in Spain,  
 “ or a distrust of his son Prince Charles’s  
 “ violent passions and dispositions, or the  
 “ expectations of what had been resolved at  
 “ Bayonne,

“ Bayonne, growing ripe for execution in  
 “ France, gave over the discourse of seeing  
 “ the Low Countries, but at the same time  
 “ took up the resolution for dispatching the  
 “ Duke of Alva thither, at the head of an  
 “ army of ten thousand veteran Spanish and  
 “ Italian troops, for the assistance of the  
 “ Governess, the execution of the Laws,  
 “ the suppressing and punishment of all who  
 “ had been authors or fomenters of the late  
 “ seditions. This result was put suddenly  
 “ in execution, though wholly against the  
 “ advice of the Duchess of Parma, in  
 “ Flanders, and the Duke of Feria, one of  
 “ the chief ministers in Spain, who thought  
 “ the present peace of the provinces ought  
 “ not to be invaded by new occasions, nor  
 “ the royal authority lessened by the being  
 “ made *a party in a war upon his subjects*,  
 “ nor a minister employed where he was  
 “ so professedly both hating and hated as  
 “ the Duke of Alva in the Low Coun-  
 “ tries.

“ But the King was unmoveable, so that  
 “ in the end of the year 1567, the Duke  
 “ of Alva arrived there with an army of ten  
 “ thousand of the best Spanish and Italian  
 “ soldiers, under the command of the  
 “ choicest officers, which the wars of  
 “ Charles V. or Philip II. had bred up in  
 [F 4] “ Europe,



“ Europe, which with two thousand Ger-  
 “ mans the duchess of Parma had raised  
 “ in the late tumults, and under the com-  
 “ mand of so old and renowned a general  
 “ as the duke of Alva, made up a force  
 “ which nothing in the Low Countries  
 “ could look in the face with other eyes  
 “ than of astonishment, submission, or de-  
 “ spair.”

“ Upon the first report of this expedition,  
 “ the trading people of the towns and  
 “ country began in vast numbers to retire  
 “ out of the provinces, so as the Duchess  
 “ wrote to the King, that in a few days  
 “ above a hundred thousand men had left  
 “ the country, and withdrawn both their mo-  
 “ ney and goods, and more were following  
 “ every day, so great antipathy there ever  
 “ appears between merchants and soldiers ;  
 “ whilst one pretends to be safe under laws,  
 “ which the other pretends shall be subject  
 “ to his sword and his will. And upon  
 “ the first action of the Duke of Alva, after  
 “ his arrival, which was the seizing of the  
 “ Counts Egmont and Horne, as well as the  
 “ suspected death of the Marquis of Berg-  
 “ hen, and imprisonment of Montigny in  
 “ Spain (whither some months before they  
 “ had been sent with commission and in-  
 “ structions from the Duchess) she immedi-  
 “ ately

“ ately desired leave of the King to retire  
 “ out of the Low Countries.

“ This was easily obtained, and the Duke  
 “ of Alva invested in the government, with  
 “ powers never given before to any governor.  
 “ A council of Twelve was erected for tryal  
 “ of all crimes committed against the King’s  
 “ authority, which was called by the people,  
 “ the council of blood : great numbers were  
 “ condemned and executed by sentence of  
 “ this council, upon account of the late in-  
 “ surrections, more by that of the in-  
 “ fition against the parting advice of the  
 “ Duchess of Parma, and the exclamation  
 “ of the people at those illegal courts.  
 “ The towns stomached the breach of their  
 “ charters, the people of their liberties, the  
 “ Knights of the Golden Fleece the charters  
 “ of their order, by these new and odious  
 “ courts of judicature. All complain of  
 “ the disuse of the states ; of the intro-  
 “ duction of armies ; but all in vain : the  
 “ King was constant to what he had de-  
 “ termined ; Alva was in his nature cruel  
 “ and inexorable, the new army was fierce  
 “ and brave, and desirous of nothing so  
 “ much as a rebellion in the country ; the  
 “ people were enraged, but awed and un-  
 “ headed ; all was seizure and process, con-  
 “ fiscation and imprisonment, blood and hor-  
 “ ror,

“ror, insolence and dejection, punishments  
 “executed, and meditated revenges; the  
 “smaller branches were lopped off apace, the  
 “great ones were longer a hewing down.  
 “Counts Egmont and Horne lasted several  
 “months, but, at length, in spite of all  
 “their services to Charles V. and to Philip,  
 “as well as of their new merits in the quiet-  
 “ing of the Provinces, and of so great  
 “supplications and intercessions as were  
 “made in their favour, both in Spain and  
 “in Flanders, they were publickly be-  
 “headed at Brussels, which seemed to break  
 “all patience in the people, and, by their  
 “end, to give those commotions a begin-  
 “ning which cost Europe so much blood,  
 “and Spain a great part of the Low Country  
 “provinces.”

From experience of this unfortunate ex-  
 ample of measures, under circumstances so  
 very apposite to the present case of the in-  
 surrection in the Colonies, let us consider  
 to what situation, and to what a strange di-  
 lemma, 'Great-Britain would be reduced,  
 if while it aims to extend its government  
 as it extends its dominions, it shall be found  
 to labour that point under a disputed right,  
 and with a discontented people, “who  
 “can neither (as Sir William Temple says  
 of Portugal on its accession to Spain) “be  
 “used

“ used like good subjects and be governed  
 “ without armies, nor like a conquered na-  
 “ tion, and so made to bear the charge of  
 “ its forced obedience.”—From the ruinous  
 effect of measures of violence and of arms,  
 when used by the body politic against its own  
 limbs and members, where every success  
 and victory must be an oppression of its own  
 interest, let all resolutions which lead to such  
 be suspended, at least to the very last ex-  
 tremity.—Those who have known the spirit  
 of the Colonies in times prior to these events,  
 would hope that there would be no such  
 necessity, especially when they know that  
 the Colonists must be conscious of the ab-  
 solute impossibility of their resisting, should  
 they now be mad enough to draw upon  
 themselves that fatal dreadful necessity. But  
 on the contrary, let all parties unite, the  
 present Ministry, with those gentlemen  
 whom they have succeeded, and they again  
 with their predecessors ; let all, whether  
 concerned in the business of government or of  
 commerce, unite in a firm, steady, and con-  
 stitutional maintenance of the right of the  
 supreme Legislature of Great-Britain to lay  
 taxes on all parts and persons within the  
 realms of the same ; let them unite as in  
 well policied, so in well concerted measures,  
 of enforcing this right, of enforcing it ra-  
 ther

ther by teaching the Colonies their duty, than in exacting it of them by force of arms. This may be best done by the gentlemen of the late Ministry, on their part fairly and candidly joining issue in reconsidering (from experience of what has occurred since the enacting the late revenue acts for America) these measures solely on the ground of expediency, and from the openness and candour with which they did act, by giving a year's notice of their intentions, and taking the sense of the house before they proceeded to bring forward the measure, in a bill. We may be assured, that if any one can shew any inexpediency in the way to the effect, or any grievance in the execution of the measure, which does not equally lie against the revenue acts of the same nature in Great-Britain, we may be assured that they will readily, and in all justice join, to give such relief as the wisdom of Parliament shall find proper and necessary. If the present Ministry will, as most certainly they ought, and as I make no doubt they will do, join with the last in maintaining and supporting the right of the supreme Legislature in the mother-country: the gentlemen of the last will most certainly not refuse to resurvey their works, whenever any default can be pointed out in that ground whereon they laid their foundation,



dition, or in the structure which they built upon it.

Convinced therefore, whatever may be the personal animosities of particulars, whatever may be the struggles and jealousies of contending parties for power and interest, where either power, interest, or revenge is to be come at, that at this very perilous and important crisis, wherein nothing can arise but ruin to the Colonies and trade, and danger to Great-Britain in its funds, its peace, its power, and perhaps its safety, all persons and parties will join in a serious and Parliamentary consideration of these matters : convinced, I say, of this, for such ever has been the good fortune and good sense of this country, when the danger was really at our doors, that all parties coinciding in one common love of this country, will, as they have ever done, unite in guarding and saving it ; I do proceed, as far as my poor experience may suggest, to point out, to those who have the fortune to be in business, or to be connected with those who are, and who can give efficiency to their endeavours, such measures as are most likely to reduce the Colonies to their duty, and to unite them as in affection, so in polity, with the mother-country.

Previous to any proposals that I shall here make, I beg to repeat what I have already urged in \* *the Administration of the Colonies*, that until an effective administration for Colony affairs be established by government, all plans for the governing of those countries under any regular system of policy, will be only matter of speculation, and become mere useless opprobrious theory. All official information given and transmitted by those whose duty it is to give it, will, as accident shall decide, or as the connexions of parties shall run, be received or not ; nay, it may so happen, that those officers who should duly report to government the state of these matters, will, as they find themselves conscientiously or politically disposed, direct that information to those who are in, or to those who are out of administration. Every leader of every little flying squadron will have his runner, his own proper channel of information ; and will hold forth his own importance in public, by bringing *his plan* for American affairs before it. All true and regular knowledge of these affairs being dispersed, will be evaporated ; every administration, even Parliament itself, will be distracted in its councils by a thousand odds and ends of proposals, by a thousand pieces and parcels of plans, while those  
surely,

\* Vide Administration, page 11—25.

surely, who are so deeply concerned as the Americans themselves are, will not be excluded from having their plan also; they will have their plan also, for however peaceably they may submit to the direction of the powers of government, derived through a regular established permanent mode of administration, they will by any means that they can justify, refuse to have their interests directed and disposed of by every whim that every temporary empiric can force into execution. If therefore we mean to govern the Colonies, we must previously form at home some practical and efficient administration for Colony affairs.

Before the erection of the Board of Trade as a particular office, the business of the Colonies was administered with efficiency; the king himself in council administered the government of his Colonies; the state-officer, each in his proper department was no otherwise Minister than as ministerially executing the orders which he received, or officially reporting from his respective department, the information which he had to lay before the king in council. Since the establishment of that office called the Board of Trade, the administration of the Colonies has either lain dormant, or been overlaid; or, if taken up, become an occasion

of jealousy and struggle for power between that Board and every state officer who hath been deemed the Minister for the time being. From this jealousy and this struggle; this Board hath been supposed to interfere at different times with every other office; while at one time it hath had the powers and held the port of a minister's office, and at another hath become a mere committee, inefficient as to execution, unattended to as reporting. The Colonies, and the officers of the Colonies, have one while been taught to look up to this Board as the Minister for their affairs, and at another, have learned to hold it in that contempt which inefficiency gives; which contempt, however, hath not always stopped there.

To prevent, on this critical occasion, all such appearances on one hand, from misleading those who are to be governed, and to put an end on the other, to all interfering amongst those who are to govern in this line of business—The Board of Trade should either be made what it never was intended to be, a Secretary of State's office for the Plantations, or be confined to what it really is, a committee of reference for examination and report, for stating and preparing business, while the affairs of the Colonies are administered solely by the King in council, really  
acting

acting as an efficient board for that purpose. Some where there ought to be an efficiency, and in this supreme board is the proper residence of it. To place it here would be really and in fact the establishing of an administration for Colony affairs, and they would be adequately and effectually administered.

Matters being thus established at home, send out *some very considerable* person to America, as Commander in Chief both of navy and army, *with a council* under such instructions, and with such directions as may and will re-establish the British government in its American Colonies, over a free, loyal, and dutiful people. More than this, I do not at present think myself at liberty to publish, but certain it is, that the very appearance of some such *very considerable person*, under such instructions, but for a season in that country, would compose all disorders, and restore peace and government.

*Magno in populo cum sæpe corta est  
Seditio; sævitque animis ignobile vulgus  
Jamque faces et saxa volant, Furor arma  
ministrat.*

*Tum pietate gravem ac meritis si forte virum  
quem*

*Conspectere, silent arrectisque auribus astant  
Ille regit dictis animos et pectora mulcet.*

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This



This measure being taken as the only effective and adequate plan, which will reach and heal the malady without destroying the patient; other temporary and seasonable measures may be taken under consideration in the mean time.

In order to this consideration, let us see what are the several grievances complained of, as suffered by the Colonies. They complain, 1st, That they are taxed without having equally, as other freemen of England have, their share of representation, which might in Parliament state their condition, or give their consent as to taxes.

2dly, That a severe and strict execution of the laws of trade as they now stand, and as the trade of that country is circumstanced, must have an effect oppressive and ruinous to the Colonies as a commercial people.

3dly, That a want both of silver and paper money, as a medium or currency, which is a legal tender in the Colonies, cloggs even the necessary business of the domestic market, stops all improvements and new settlements in the country, obstructs their commerce, and finally renders them incapable of making their returns of payment to England,

land, or the payments required by the Impost and Stamp Duties.

4thly, That the Impost and Stamp Duties directed to be paid into the Receipt of the Exchequer, must finally drain the Colonies of their money.

5thly, That the rate of the duties laid by the late Revenue Act; as duties now to be collected (for before that time some of them were meant rather as a prohibition than a duty) is higher than the trade of the Colonies can bear, or at least is higher than is consistent with the reasonable profits of that trade.

6thly, That gold and silver passing current in the Colonies, according to a certain rate of exchange, namely at 133 and one third for a hundred (which rate is fixed by act of Parliament confirming a proclamation issued by Queen Anne.) Money, whether silver or paper, becomes at that rate of exchange the lawful money of America: that it becomes therefore hard, inconvenient, and a matter of grievance to oblige them to pay the duties laid upon them in sterling, in silver which they have not, or in paper, while their paper money shall cease to be a legal tendure.

[G 2]

7thly, That

7thly, That having, as every other Englishman hath, a right to be tried both in their property and in their persons by their country, that is by a jury, they complain of the jurisdiction of the court of Admiralty, but more especially of the extension of it in the Stamp Act, to what they call internal taxes.

To the first complaint, as far as my judgment informs me, the matters contained in the former part of this Appendix are an answer. The point in question is of great delicacy and of very high importance, it is what concerns the rights, privileges, and liberties of a great country, of a people, Englishmen as well as ourselves; I would not therefore be thought to pronounce rashly, or to give an air of decision to my opinions: I beg it may be understood that I speak them under every sense of, and regard for these important interests, not only as they concern the Americans, as they concern the the present age, but also under an idea of the relation they may bear to the future liberties of mankind.

Upon the subject of the second, I have already, in the Administration of the Colonies \*, declared my opinion, and have long

\* Vide page 181.

ago given it officially, That a revision of the laws of trade respecting the Colonies is a measure absolutely necessary. That measure should commence by an actual view taken of the real course and state of that trade: Upon this information, should be formed (strictly adhering to the principle of the Act of Navigation) a system of commercial law, which should not oppress or pervert the Colony trade, but so regulate and direct its motions in coincidence with and in subordination to the trade of the mother country, as to secure the most essential benefits of its effect to Great Britain, by drawing all the surplus profits which are derived from it, to center there finally.

The difficulties mentioned under the third may be easily remedied, as it is within the power of government to take such measures as shall supply the Colonies with that medium or currency \*, the want of which is complained of, for first, if that trade which introduces the Spanish and Portuguese bullion into the Colonies is not obstructed or restricted further than the material and essential limitations of the Act of Navigation require, That trade will, as it hath ever hitherto done, supply the Colonies with silver in part of their necessary currency.

\* Vide Administration, page 104, 106.

2dly, As the act lately passed for restraining the assemblies of the Colonies, from making their paper-money a legal tender, was not meant to exclude the Colonies from having a paper-currency, but to remedy the defects and fraudulent abuses of it: If the effect of that law hath had a tendency to prevent a sufficient quantity of this money from being current \*, it becomes a very proper occasion for government to interpose, and to do in consequence of this exigency, what ought always to have been done from motives of wise and just policy, to provide for the Colonies by authority of Parliament, a paper-money which shall have none of those limitations or defects which the local paper-money of any particular Colony must have: which paper-money may be made by the same authority a general currency and a legal tender throughout the continent, and yet not be capable of being abused to those fraudulent depreciations complained of in that paper-money, which hath been made by some of the particular Colonies. Such a mode of paper-money may be easily formed under authority of Parliament, and be issued by government to the Colonies, as shall not only remove every difficulty here complained of, but shall carry with it to the Colonies every benefit that money can procure to a

\* Vide Administration, page 110, 111.



country in its forensic uses, in the improvement and culture of its lands and in the extension of its trade and commerce; which will at the same time secure to government all those rights and powers which the supreme magistrate ought to have in the forming, direction, and administration of money, so far as it becomes a legal tender either in coin, or in any other species by authority of government: This species of paper-money here referred to, may further, by the manner in which government shall issue it, raise a very considerable revenue to the crown, without being even in appearance the burthen of a tax upon the people, and of which revenue not one farthing will be paid without their own consent.

Such a paper-currency would relieve every grievance complained of under this head, by providing for the Colonies a species of money, which being a legal tender within the continent, at a fixed rate of exchange, would supply every demand for payment of the Impost, Stamp, and other duties.

For the same reasons that the publication of this scheme was suspended in the second edition of the Administration of the Colonies it is again suspended, under hopes that from the good dispositions of administration to-

wards the colonies, a measure so beneficial to the Colonies; and so advantageous to Great Britain, may be taken up and carried into execution.

The complaint contained in the fourth article above stated, is not made in general, it is rather the mistake of those who make it than a real matter of complaint. The monies raised by these duties are directed to be paid not actually into the Exchequer, but *into the Receipt of his Majesty's Exchequer*, to be entered separate and apart from all other monies, and reserved at the disposal of Parliament, for the service of the Colonies. The monies raised, or to be raised, in America are deposited and reserved in that country, to be applied at the disposal of Parliament to the service of that country only, nor is one penny ordered or intended to be drawn out of the country.

To the fifth article of complaint made, one may, I think, from the candour and friendly dispositions of gentlemen of all parties, towards the Colonies, venture to affirm, That if the Colonists would have exhibited, or will now exhibit fair, precise, and authentic states of their trade, and of the reasonable profits thereof, or show that the duties charged on such  
business

business as requires Stamps, are higher than is consistent with the nature of the transactions charged, or create obstructions and inconveniencies to such business, more than Parliament could ever intend for the sake of any revenue, or point out any other matter of grievance or hardship by means of these duties, which does not attend every tax and duty laid upon the people of England ; one may, I think, venture to affirm, That the late would, or the present ministry will give such representations every consideration that the Colonists can wish, and that all will join issue in giving every relief which the case fairly requires\*. And if it shall be the opinion of Parliament that these duties are too high, or that such sums as are estimated and expected to be raised by them at the rates at which they are now fixed can be spared, relief (should such be thought sufficient) may be given, by declaring all those rates to be paid at the rate of proclamation, or the lawful money of the Colonies, instead of sterling at the rate of silver at five shillings and six-pence per ounce.

The sixth article of complaint would be founded on a real grievance, if as the paper money of the Colonies ceases to be a legal

\* Vide Administration, page 194.

tender,

tender, the Colonies could not be admitted to make payment of these duties but in specie or in coin, which they have not a sufficient currency of to answer that end. Copper is not usually current in America; all payments therefore under the value of any silver coin usually current there, will be impracticable for want of change, as will also all payments that do not coincide with the divisions and aliquot parts of such coins, either of gold or silver, as are usually current there. If from a want of a paper currency, and a consequent insufficiency of silver, there really should be a want of specie of any kind in which to pay these duties, the grievance would then really exist. But this is a consequence at which rather to be alarmed, than to expect; for the act does not require the payments to be made in sterling money or silver, but only prescribes that the payments required shall be deemed and understood to be sterling, according to the proportion and value of silver at five shillings and sixpence the ounce, and shall be paid and received at a rate of exchange or currency, according to that value. The providing therefore a paper currency, which by authority of Parliament shall be a legal tender, removes all these difficulties, and relieves all these grievances.

As to the matter of grievance complained of under the seventh head as here stated, it may be said, first, that tryals in cases of revenue and trade before courts of admiralty in the Plantations, is no novel measure, and therefore not particularly to be complained of on the present occasion. If the necessity of establishing in the Plantations such a mode of prosecution and trial for offences against any of the revenue acts did ever justify this measure, so that it hath been submitted to for many years, the events consequent on the enacting of the laws creating the late impost and stamp duties, must thoroughly justify it on the present occasion. For under the late opinions and principles adopted in the Colonies as to these duties, where would the crown find a jury which would give a verdict of conviction upon any prosecution in this case\*. If (while the laws of trade are meant to be carried into execution) any other mode of prosecuting to conviction offences against them can be devised, I should hope that there is not a Briton throughout the realm who does not wish to see the trial by juries invariably adhered to and insisted upon in all cases whatever; and that such never will be deviated from, but where the necessity is unavoidable,

\* Vide Administration, p. 79.



avoidable, and where that deviation is regulated and authorised by act of Parliament only. That the jurors shall be of the vicinage is equally a principle of law; but cases may happen wherein the jurors cannot be taken from the vicinage, as in the case of rebellions, and general oppositions made to laws. On the other hand, truth and justice must declare how much it is to be wished, that all offences in the Colonies against the acts of trade, should be tried in some of the courts of record there. He, therefore, who shall devise the means of securing justice to the crown in these cases, where a predominant spirit runs through the Colonies against the carrying of the acts into execution, will do his country, will do the general cause of liberty, a most essential service. I am no lawyer, and can form no opinion whether there be or not in the course of our laws, in the proceedings of our courts, any process by prosecution in the court of Exchequer; any remedy by attainting juries, by writ of error, or by appeal, by which such justice may be effectually secured. Whether the erecting in America, by act of Parliament, courts of Exchequer for the express purposes of the crown's revenue would answer this end, I will not even venture to form a guess; but surely it deserves the consideration of the crown lawyers. And here I will  
not

not suffer myself even to doubt but that any remedy, which upon such consideration can be proposed as effectual to remove this grievance, will be unanimously received and carried into execution.

A difficulty of a very different and much more intricate nature arises from the strange predicament into which the Colonists have brought themselves. The stamp act requires \*, that the several parts of the Colonies and Plantations be sufficiently furnished with vellum, parchment and paper, stamped or marked with the respective duties. If the commissioners for managing the stamp duties had not taken care to send such stamps to the Colonies, or if being sent, these stamps, one and all, had perished by the danger of the sea, the Colonies would not have been furnished with them, the Colonists would not have been in blame, and yet the act could not have taken place. In such case some remedy must have been provided by Parliament. From the outrages and unjustifiable conduct of mobs and riots in the Colonies, the same case exists, and therefore apart all considerations of the offenders and the offence, some remedy becomes necessary. It is said, that some of the Colonies taking up  
this

\* § 14.

this case as an exigency to be provided against, have framed to themselves a remedy, by ordering, ordaining or resolving that all business, all officers and offices in such respective Colony, shall proceed as though no such act as the stamp act existed. However unjustifiable and criminal the measures which have brought on this state of things, may be, whoever they may be who are to blame, are certainly questions of the highest import; but the first matter to be considered is, what provision is immediately necessary for the actual state in which the Colonies stand at present. Scarce any one act in the process of law, or in the course of trade is legal and valid without the sanction of stamps; no deed can be received in evidence without that sanction, and yet the fact is (apart the consideration of the crime) that the Colonies have not stamps. If they had not been sent, so that the Colonies should be supplied, or if they had been lost by the act of Providence, and not a fresh supply sent, some provision must have been immediately applied to this state and condition in which the Colonies would have been, whatever had been the proceedings of government towards the criminal causes of this state: and in whatever light government may consider the present causes of this state of the Colonies, and in whatever manner it may

may be found wise and prudent to act towards them, yet some provision, as in the same case and of the same nature, is immediately necessary; *some act of indemnity as to persons and actions which may be involved in the disqualifying circumstances consequent on the want of stamps.* The commissioners of stamps should forthwith furnish the Colonies with a constant and repeated supply of Stamps, from time to time so long as the act continues in force; and so long as it is the sense of government that no reasonable or just ground can be shown, why it should not continue in force of law. Some power, or other interposition of government, is immediately and absolutely necessary to render practicable the distribution of those Stamps, and the execution of the several offices established by virtue of said act. And if after all is done, which government in the course of civil administration can do, without applying force, the resistance and oppugnancy in the Colonies against government, will urge matters to the last question and to the last extremity; that question must be taken up, which all wise and good people

\* *pariter susceptam neglectamque timerent.*

Matters will be then brought to a crisis, the necessity of which calls for a decision, for a decision which will admit of no palliation,

\* Livius, lib. 8. § 29.

no shifting off the danger, no middle way. The power of government must either be maintained, vindicated and exerted, or be given up for ever. There cannot be a doubt, one would hope that the Colonists themselves have not so contemptuous an idea of government, as to doubt that it will not exert its power, so long as any Law or act of its own calls for that exertion.

*How this power is to be exerted, is the great question at this important and decisive crisis. Whether it shall be best and most effectual to the good of the whole, to exert the power of government by *modes of policy*, or to put forth the force of government *by arms*. Force of arms must beyond all doubt subdue the Colonies, and reduce them to obedience, but it will be a forced, a temporary, and an unprofitable obedience, which will continue no longer than while the hand of force hangs upon its neck. On the other side of this question, there may be found modes of policy which shall govern the Colonies by communicating to them, according to precedents in our constitution, those rights, privileges, and liberties, which give, by an union of powers, an actual share in that government by which they are governed. Such an union of these encreasing and beneficial parts of the dominions,*

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nions, would be in reality an extension, and in Effect the establishment of the King's government throughout the realm. Although I have hazarded my opinion in stating questions of this high import, and of such dangerously interesting consequence, yet I have not presumption enough to dare even to suggest a decision on them from any private opinion; I will therefore close this paper, by giving to the reader two precedents of the opinion and conduct of the Roman Senate, in some cases of the like nature.

The Latins had revolted from the Romans, they were reduced to obedience by L. F. Camillus. When Camillus returned to Rome after finishing his business, he reported the state of it to the Senate in the following words \* : “ Reliqua consultatio est  
 “ quoniam rebellando sæpius nos sollicitant,  
 “ quoniam modo perpetuâ pace quietos ob-  
 “ tineamus. Dii immortales *ita vos potentes*  
 “ *hujus consilii fecerunt*, ut sit Latium deinde,  
 “ an non sit, in vestra manu posuerint.  
 “ Itaque pacem vobis, quod ad Latinos  
 “ attinet, parare in perpetuum *vel sæviendo*  
 “ *vel ignoscendo*, potestis. Vultis crude-  
 “ ter consulere in deditos victosque? Licet  
 “ delere omne Latium; vastas inde solitu-  
 “ dines facere, unde *sociali egregio exercitu*

\* Livius, lib 8. § 13.

“ *per multa bella magnaque sæpe usi estis.*  
 “ *Vultis exemplo majorum augere rem Ro-*  
 “ *manam victos in civitatem accipiendo?*  
 “ *Materia crescendi per summam gloriam*  
 “ *suppeditat. Certe id firmissimum longè*  
 “ *imperium est, quo obedientes gaudent. Sed*  
 “ *maturato opus est, quicquid statuere placet.*  
 “ *Tot populos inter spem metumque suspensos*  
 “ *animi habetis. Et vestram itaque de iis*  
 “ *curam quamprimum absolvi et illorum*  
 “ *animos, dum expectatione stupent, seu pœnâ*  
 “ *seu beneficio, præoccupari oportet. Nos-*  
 “ *trum enim fuit efficere, ut omnium rerum*  
 “ *vobis ad consulendum potestas esset. Vestrum*  
 “ *est decernere quod optimum vobis reique*  
 “ *publicæ sit.*” — Upon this opinion, the  
 Senate determined to examine in what predi-  
 cament each town or people of Latium  
 stood, and to all who had not forfeited every  
 ground of favour, so as to exclude themselves  
 even from pardon, the freedom, rights, and  
 privileges of Rome were given *Civitas data*  
*est.*

Upon an event of the like nature in the  
 case of the Privernates. “ *Quum ipsa per*  
 “ *se res anceps esset, prout cujusque in-*  
 “ *genium erat, atrociùs mitiùsve suadenti-*  
 “ *bus; tum incertiora omnia unus ex Pri-*  
 “ *vernatis legatis fecit, magis conditionis*  
 “ *in qua natus esset, quam presentis necessi-*  
 “ *tatis*

“ tatis memor : qui interrogatus à quodam  
 “ tristioris sententiæ auctore, *quam pœnam*  
 “ *meritos Privernates censeret ? eam, inquit,*  
 “ *quam merentur qui se libertate dignos*  
 “ *censent.* Cujus cum feroci responso in-  
 “ festiores factos videret consul eos qui ante  
 “ Privernatium causam impugnabant ; ut  
 “ ipse benignâ interrogatione mitius respon-  
 “ sum eliceret, *Quid si pœnam, inquit,*  
 “ *remittimus vobis, qualem nos pacem vo-*  
 “ *biscum habituros speremus ? Si bonam de-*  
 “ *deritis, inquit, & fidam & perpetuam :*  
 “ *si malam haud diuturnam.* Tam verò  
 “ minari, nec id ambiguè, Privernatem,  
 “ quidam, & illis vocibus ad rebellandum  
 “ incitari pacatos populos. Pars melior se-  
 “ natûs ad meliora responsa trahere & di-  
 “ cere, Viri & liberi vocem auditam, an credi  
 “ posse ullum populum, aut hominem deni-  
 “ que in ea conditione, cujus eum pœniteat,  
 “ diutius quam necesse fit, mansurum ? Ibi  
 “ pacem esse fidam, ubi *voluntarii pacati*  
 “ *sint : neque eo loco, ubi servitutem esse ve-*  
 “ *lint, fidem sperandam esse.* In hanc sen-  
 “ tentiam maxime consul ipse inclina-  
 “ vit animos, identidem ad principes sen-  
 “ tentiarum consulares uti exaudiri pos-  
 “ set a pluribus, dicendo, eos demum  
 “ qui nihil praeterquam de libertate co-  
 “ gitent, dignos esse qui Romani fiant.  
 “ Itaque

“ Itaque in senatu causam obtinuerē,  
“ & ex auctoritate Patrum latum ad Po-  
“ pulum est——UT PRIVERNATIBUS CI-  
“ VITAS DARETUR.”

*F I N I S.*









Steven H. Allen 7/5 1892

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